Royal Canadian Mounted Police

Gendarmerie royale du Canada

Canada

INTERNAL REVIEW OF THE ROYAL CANADIAN MOUNTED POLICE INVESTIGATION OF THE HATFIELD CASE

Royal Canadian Mounted Police | Gendarmerie royale du Canada

The Commissioner | Le Commissaire

May 21, 1985

The Honourable Elmer MacKay, P.C., Q.C., M.P.
Solicitor General of Canada
340 Laurier Avenue West, 13th Floor
Ottawa, Ontario
K1A 0P8

Dear Mr. MacKay:

Forwarded herewith is my report on the "Internal Review of the R.C.M.P. Investigation of the Hatfield Case".

Yours truly,

R.H. Simmonds
Commissioner

Enclosures

Canada

1. There has been speculation with respect to this report. It is therefore important to make clear its purpose and its limitations. The report is a summary of the results of an examination of the conduct of members of the Royal Canadian Mounted Police who were involved in any way in what has become publicly termed "the Hatfield Case".

2. The report is not an examination of the part played by other persons--i.e. members of the Department of Justice, Prosecuting Counsel, Judges, media personalities, public officials or citizens at large. However, in examining the conduct of members of the Force other people are frequently mentioned and their actions are referred to only insofar as is necessary to make it understandable why a member of the Force acted or reacted, the way he did, or to establish that a member was not responsible for certain activities by showing that events were the responsibility of some other person. In sum, the purpose of the review, and thus the report, is to determine if any member of the Force was in breach of the RCMP Act, Regulations or Commissioner's Standing Orders, or any other law, during the course of this investigation.

3. In preparing this report to you I have reviewed the case file, the transcript of the proceedings in Court and the voluminous material that was presented to me by Chief Superintendent BÉLANGER who, along with Inspector PRUNEAU, made enquiries on all aspects of this matter. Their material is made up of numerous statements and the results of interviews of many people, along with opinions and conjecture. A good deal of it is an accounting of lengthy investigative efforts that in the end prove a negative, thus eliminating speculation that a particular member may have done something improper. That raw internal material does not form a part of this report, but rather it is base material from which I have drawn in order to come to my conclusions.

4. Among the things that have been said about this case is that it seems not to have followed the course that is usual in minor possession of marihuana incidents. That is true. However, apart from the fact that marihuana is a common substance that is often found in the possession of people in varying quantity,

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there is nothing else that is normal about this case. To my belief it is the first Canadian case where the drug was detected in the effects of a person elected to high office, and certainly the first case when the illegal substance was located during a security check of luggage that was about to be placed on a Royal Flight Aircraft. It is these very abnormalities that sets the case apart and caused an abundance of caution that later was characterized as special attention for an improper or unhealthy purpose.

5. Normally when illegal narcotics are located in a person's effects, the effects are delivered in a controlled way so that the police can testify that there was no tampering with the exhibit. After the effects are accepted by the recipient a search is conducted, the drug seized and the person charged, he having been found physically in possession of the substance. If the individual testifies before the Court that the narcotic is not his, or that he had no knowledge of its presence, it is up to the court to weigh the evidence and come to a finding based on all the circumstances presented at the trial. These procedures were not followed in this case for a number of reasons, and it is therefore important to outline in general terms what did occur.

6. At 11:00 hours September 25th, 1984 the Royal Flight arrived at Fredericton where Her Majesty was to participate in a number of functions that day. The flight was scheduled to leave at 17:00 hours that afternoon, en-route to Moncton. A dinner to be given by the Government of New Brunswick, and hosted by Premier HATFIELD, was scheduled to take place at 20:30 hours at the Beausejour Hotel in that City. Arrangements in place provided that Premier HATFIELD would travel between Fredericton and Moncton on the Royal Flight.

7. At about 10:30 hours Premier HATFIELD was driven to the airport by Mr. Arthur PARKS, who had picked the Premier up at his home a short time earlier. Upon picking the Premier up, Mr. PARKS put the Premier's suitcase in the car and, at the airport, arranged that it be held at the terminal in order that it could be

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placed on the Royal Flight aircraft following its arrival with the Royal Party. The Premier had gone to the airport to meet Her Majesty and, as previously stated, was to travel to Moncton on the Royal Aircraft after the Queen had completed Her visit to Fredericton later in the day.

8. As is customary there was fairly heavy security at the Airport during the 25th. After the Royal Party had arrived at Fredericton and departed the airport the security detail remained to guard the aircraft and generally supervise all activity at the airport from a security perspective throughout the day. The Premier's suitcase was left in an area that was in a general way under control of the security detail from the time of its arrival in the morning until it was searched at about 14:15 hours. It was not always in the immediate presence of a member nor was it in an area where there was open access by the general public and, had any unknown person entered that area, he would have been challenged and identified. This is just to say that it is almost inconceivable that anyone could have tampered with the suitcase between the time it was brought to the airport and the time of its search.

9. Questions have been raised as to why the bag would be searched when it was known to be the Premier's. I can only say that it is normal practice to check all material that is to be loaded on a Royal Aircraft. In this case the NCOi/c of the security detail contacted, by telephone, a member of the RCMP Explosive Disposal Unit to arrange for a proper scanning of the bag. However, when the E.D.U. member learned that there was only one bag to be checked he suggested a hand search by a member of the security detail rather than having E.D.U. proceed to the airport. This was agreed with and it was during this search at approximately 14:15 hours that the marihuana was found. I quote from the statement of the NCOi/c of the Security Detail:

> "Cpl. Hoffman opened one small compartment and took out a brown envelope, showed it to me and asked what about this. I instructed he should

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check anything sealed or locked. He opened this envelope while I was watching and removed a plastic bag of what looked like marihuana."

10. Having found the marihuana in what was known to be the Premier's suitcase the NCOi/c the Security Detail called "J" Division Headquarters to announce the find and to ask for instructions. This is the first departure from usual practice as, under normal circumstances, the member would have taken action similar to that described in paragraph 5 as a matter of course. In this case, however, the member was aware that the Premier was due to host the Provincial Dinner in Moncton that evening, and as the suitcase contained the Premier's formal attire, it would have been impossible to make the usual controlled delivery without disturbing the Royal visit and bringing great concern and embarrassment to Her Majesty, Canada and the Province of New Brunswick.

11. Due to Royal Visit activity nearly all staff at Division Headquarters, including the Officers, had been assigned to special duties and were not available in their offices. Thus, when calling Division Headquarters for instructions, the NCOi/c the Security Detail was unable to contact any senior operational Officer. His call was taken by another NCO who then discussed the matter with the Division Administrative Officer. Arising from this conversation was a suggestion that perhaps the best thing to do would be to replace the substance in the suitcase and overlook the matter given the circumstances of the case. When this was relayed to the NCOi/c the Security Detail he protested most vigorously and vociferously that such action would be inappropriate and unacceptable. He was then told to await further direction.

12. At the time the marihuana was found there were nine members of the Force present in the room, all of whom were immediately aware of what had occurred. During the next short period of time three other members came to the room and became equally aware.

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Thus eleven members overheard the rather pointed comments of the NCOi/c the Security Detail during his telephone conversation with the NCO at Division Headquarters. To say that the situation was both surprising and bizarre is a bit of an understatement; the Royal Flight; the Premier; marihuana; and a strong clash of views between two senior NCOs, all seen and heard by eleven junior members.

13. Contact was finally made with Chief Superintendent LING, the Commanding Officer of the Division, who returned to Division Headquarters as quickly as possible, arriving at about 15:30 hours. He was apprised of the situation and instructed that the marihuana was to be seized and the suitcase be put aboard the Royal Flight in order that the Royal Visit continue without interruption or disquiet. I fully support the judgement of Chief Superintendent LING in ruling as he did. This direction was well received by the NCOi/c the Security Detail and he made it known to those present that things were back on track and, from his statement:

> "As mentioned, the members present were made aware of and had been involved in this matter up and to this point. Before dismissing them, I instructed that what was heard and seen in the room would have to stay there. They were not to talk about it because of the sensitivity of it, that the C.O. was involved and would be directing the investigation, that the C.O. felt we should proceed just as if it were any other citizen, etc."

14. Unfortunately the NCO's last admonition was late, and in any event was not respected. By the time that he so cautioned the members it is clear that some of them had already talked to other members who were on duty at the airport, but who had not been in the room at the time of the seizure, about what had taken place. Further, seven of the twelve members, following the departure of the Royal Party at 17:00 hours, were part of the contingent of 30 members that travelled by

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bus to Moncton where they stayed overnight at the Park House Inn and were deployed for duty connected with the Royal Visit the next morning in the Moncton area. It is apparent that events at the airport were discussed among members on the bus trip to Moncton. Four other of the original twelve travelled to Moncton by Police car. Only the NCOi/c the Security Detail remained at Fredericton in order that he could carry on with the investigation of the marihuana. At Moncton the eleven members interacted with others from all areas of the Division who were there for duty connected with the Royal Visit. Unfortunately this series of events resulted in many members, from many locations in the Province, becoming quickly aware, at least in general terms, of what had transpired, and there was considerable apprehension as to what would flow from these events. However, as far as is known at this time, this broad base of awareness was totally within members of the Force up to that time.

15. At 17:30 hours September 25th Chief Superintendent LING advised Deputy Commissioner JENSEN at RCMP Headquarters of what had transpired, and asked for the Deputy Commissioner's views with respect to the authority for the search of the Premier's luggage, and thus the status of the exhibit. Following this discussion the two had come to the decision that Premier HATFIELD should not be approached that night and indeed such an approach should wait until the seized material had been analyzed.

16. At 13:25 hours September 26th the Royal Party left Moncton by air en-route to Ottawa. At 14:30 hours there was a social function at the Beausejour Hotel which was attended by a substantial representation from the Royal Visit Provincial Organizing Committee, representatives of Municipal Organizing Committees such as Dieppe, Moncton and Riverview, along with a number of members of the RCMP. The Premier appeared and thanked all present for their work in ensuring the visit was a success. At that function there was further discussion, at least among members of the RCMP, of the strange events of the previous afternoon. It is not known if the civilians present, with whom the members of the Force had worked closely both prior to

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and during the visit, were involved in any of these discussions or overheard guarded conversations among members of the Force, but in my view such is highly probable.

17. At approximately 16:00 hours September 26th Mr. William Gerald WHITE of ATV Moncton received what is believed to have been a local call from an unidentified woman with respect to this matter. I will quote Mr. WHITE's statement in full:

> "On September 26th around 4 P.M. I was in the newsroom, when the telephone rang. Although I am not attached to the newsroom on a full time basis, this time of the day, my responsibilities include getting the prepared reports which are to be aired for the news, lined up, which means typing the list of stories, along with the names of the reporters and names of people in the stories.
>
> I do use the telephone quite extensively, during this period calling the various bureaus for information, and also the bureaus calling into the newsroom.
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> It was during this time, when I answered the telephone, when an anonymous caller asked if I was a reporter. I told her 'I wasn't'. She then asked me, was I a news person. I replied that 'I was attached to the news dept'. She then said to me that she had some information, and that it was concerned with the Royal Visit, and that she is offering it to ATV News as she felt, that we would do something about it, and that the other sources of media, may possibly not do anything with it. I asked her what information she had, and assured her we would look into it. I also thanked her for trusting ATV and thanking her also for not contacting the other media. She went on to ask me, if I was aware, of the fact that the RCMP had acquired an amount of marijuana, from the luggage of the Premier. I replied 'I never heard of that'. She went on to say that it was true, I asked her how she would know such a thing. I must say I was taken back a bit. She said that she

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knew, that it was true, and that I could get confirmation to it, if I contacted Supt. Vermette in Fredericton. I then asked her if it was so, why did she call me, and let me know of this, I assuming that if it was so, the RCMP would be investigating, the alleged incident and in due time, the results would be made public. She in turn, told me the RCMP was trying to cover up the incident, because what she referred to as a problem with a member and his superior.

I assured her I would have someone look into the matter, I asked her for her name and phone number, which she said she would not give it to me, and that I had enough information, to follow the story up.

Knowing that Pat Ryan, news director for the New Brunswick news operation, was in Moncton, covering the Royal Visit, I took the information to him and said, 'I just received an interesting call, and went on to tell him what she told me. He said to me, 'do you think it is true' and do you think she wasn't a quack caller'. I told Pat Ryan, 'She is very well spoken, intelligent sounding, and quite concerned about this matter. Pat Ryan asked me if I got her name, I told him 'She wouldn't give it to me'. Pat Ryan told me he would look into it. I told Pat, 'Now don't forget, with your busy schedule, you may forget'. He said 'I won't forget'.

I let the matter of the phone call, slide by, because I had nothing more to do with it, as I am not a reporter.

The next evening, shortly after 9:30 p.m. I was editing a Country Music Show, titled "Capital City Jamboree" with Kevin Doyle an ATV staff member, when the phone rang in the ENG suite. The phone rang 4 or 5 times, and I got off my chair to get the phone. Kevin said to me, 'Forget it, no one is on duty tonight in the newsroom'. I said 'Kevin, you know me, if the phone rings in the newsroom and I am around, I will answer it.'

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The caller on the phone recognized my voice from the day before, and said 'How come I didn't see anything on the marihuana bust in Fredericton tonight'. I said that the magnitude of that story couldn't be aired that fast'. She said 'Did you get in touch with the RCMP' which I replied that Pat Ryan the news director was looking into it. She asked me if Pat Ryan spoke to the RCMP again, which I replied 'Yes he has contacted the RCMP in Fredericton'. She then asked me 'What did they say' I said, 'I didn't know'. She then asked me 'Do you know', as if she didn't believe me and I answered her 'I didn't know, but that Pat Ryan told me, he had contacted me by phone and said 'Gerry I think there is something to it'. She seemed satisfied with the answer, and she said 'Keep with it and don't drop it'. I assured her 'ATV wouldn't let it go by without a full investigation by the News department'. I called Pat Ryan either in Saint John or Moncton, I am not sure and told him that our caller got in touch with me again and was asking why the story wasn't on the news. Pat Ryan said 'Gerry if she calls back again try to get her name and phone number or ask her, if she would be willing to set up a meeting with him, in an undisclosed place or where ever she would like to meet. I never heard from her again. I did go on vacation the following week, which I was away for a month, and I never gave the incident another thought, as I felt that my duty to the news room was carried out.

Q. Did the caller have an accent?

A. No she didn't.

Q. Did the caller speak English?

A. Yes, she spoke English, she didn't have a French accent or British or Upper Canadian that might pronounce things differently. There was no slang in her voice, I listened attentively when she called. She was an educated person.

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Q. Why would she not have gotten the front desk when she called?

A. The newsroom telephone number is listed in the telephone directory and is separate from the switchboard.

Q. Was there anyone present during the first call?

A. No, there are guys in and out so there was probably people in and out, its a through traffic area.

Q. Did the caller state why she felt the other news media would not do anything with the information?

A. No, just what I said. She said I am telling you people first, that she watched ATV news night and that she knew what kind of news package we put together and she felt we would do something about it.

Q. Did she indicate the amount of marihuana found?

A. No she didn't.

Q. Did she give her source of information?

A. No, she said it was true. She told me she thought the RCMP was trying to cover up the incident. I asked her why and she said there were some problems between a member and his superior. She was adamant that we contact the RCMP. That's what was so convincing.

Q. Did she refer to Vermette by rank?

A. Yes. She did, she called him Superintendent Vermette.

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Q. Did the call appear to be long distance?

A. No, it didn't, I thought about that but everything in New Brunswick is direct dialing. I spend a lot of time on the phone, but now a line to Vancouver is quite clear, its not like the old days. I couldn't really say if it was long distance or local. I thought about it after because I knew Pat would ask. I never did ask if she was calling from Moncton or somewhere else.

Q. Have you ever heard her voice before?

A. No.

Q. Do you have any idea who the caller may have been?

A. Just assumption on my part, I had a few thoughts on my mind who would have had that knowledge and that ran from a wife of an RCMP to a female staff member or a female member.

Q. Could you estimate the age of the caller?

A. Well I don't know, I would say she would have to be late 20's or early 30's, in that era. The reason I say that, you take a person 22-23 I know what they sound like. I have a daughter 23 and I knew what she sounds like and what they sound like here. I would say late 20's, early 30's. I know there was no excitement or anxiety in her voice. She sounded cool and level headed. There was a certain firmness in her voice, she seemed very sure of what she was saying.

Q. Who was present when you told Pat Ryan about the call?

A. I think Drew was in the newsroom but I don't know. I didn't want a lot of staff to know. I

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remember where he was sitting in the newsroom. I wouldn't mind Drew. I didn't want the cameramen to know. Even if Pat Ryan wasn't here, I wouldn't have given that information to a reporter. I would have gone directly to Pat Ryan because he is the news director.

Q. On the second call did the caller use the term "bust"?

A. No, she may not have used the word bust. In fact I really should delete it because her elegance in speaking, she would more than likely have used with regard to the marijuana story or in the luggage.

Q. In your statement you said she asked 'If Pat Ryan spoke to the RCMP again' did you take that to mean she had previous knowledge that he had already spoken to the RCMP?

A. No, when she called I assured her that I would give it to Pat Ryan because he was the news director for New Brunswick. So that's how she would know his name. On the second call she first of all said she didn't see anything of the story on the news tonight. She wanted to know if we were doing anything about it. I assured her yes. She wanted to know what they said. She wanted to know if the Pat Ryan had contacted the RCMP and if he had spoken to Superintendent Vermette."

18. During the morning of September 26th Deputy Commissioner JENSEN consulted with a senior Official at the Department of Justice with respect to search authorities under the circumstances that had prevailed. Late that afternoon he advised me of the matter at which time I made arrangements to meet with the Solicitor General to advise him in general terms of the investigation that we had under way in order that he not be caught unprepared if he received a question, this I did at 17:45 hours.

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19. It will be seen that by late afternoon of September 26th the knowledge of this matter was widely spread among the rank and file of "J" Division, the Federal Department of Justice had been brought into the picture, the Solicitor General of Canada had been advised and an unidentified woman had made contact with the media with respect to the investigation. On the morning of September 27th Patrick RYAN of ATV contacted "J" Division Headquarters at Fredericton with respect to this matter, and although he was unable to obtain any confirmation, the Force became aware that knowledge was now beyond its members and the media were onto the incident. Initially Mr. RYAN stated that the information had been received from a female member of the Royal Visit Organizing Committee. As will be noted in Mr. WHITE's statement, the unidentified woman caller again contacted ATV at about 21:30 hours that evening, enquiring as to why the story had not been aired.

20. Before proceeding further I will comment on the conduct of the members up to that point in time, and the results of our internal review with respect to that conduct. The circumstances in which the narcotic was found were such that a rather large number of members became instantly aware of what had taken place. The rather dramatic and forceful reaction of the NCOi/c the Security Detail during his early contact with Division Headquarters only heightened the interest and concern of all present. It is almost impossible to conceive that members, under these circumstances, would not discuss it with other members with whom they came in contact, and yet, that is exactly what should have occurred. Had the knowledge of the event remained entirely within the Force, and other official circles on a need-to-know basis, and not surfaced publicly until the laying of a charge took place, the cause for later suspicion and mistrust of Force motives and investigational integrity would have been greatly reduced.

21. Upon entry to the Force every member is required to take three oaths; the Oath of Allegiance; the Oath of Office and the Oath of Secrecy. The latter oath reads as follows:

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> "I,..... do solemnly swear that I will keep absolutely secret all knowledge and information of which I may become possessed through my position with the Royal Canadian Mounted Police; that I will not, without due authority in that behalf, discuss with members of the Force or any other person, either by word or letter, any matter which may come to my notice through my employment with the said Royal Canadian Mounted Police. So help me God."

22. The Oath of Secrecy taken by every entrant to the Force is in place to prevent circumstances such as have been described here from taking place. It is, of course, not an easy oath to enforce, but its value is in setting a standard of professionalism and integrity that will assure public confidence and trust in the Force. When the standards are not maintained there is always a consequential lessening of respect for the organization. Unfortunately in this case that standard was severely breached. The questions that arise are whether or not the unidentified woman caller learned of this incident through inadvertant and unprofessional loose talk, or was she deliberately advised in order that she could go about her mischievous contact with the media? Is she a member or an employee of the Force? Is she a wife or a friend of a member? Is she a trusted confidant to whom an indiscreet member said too much, not realizing that she would use the information for her own ends? No matter which, it was only male members who were among the original twelve at the security office, and the party that travelled to Moncton by bus was made up entirely of male members, and had these people conducted themselves in accordance with their oath this female could not have become privy to information that allowed her to pursue her mischief.

23. Our internal review concentrated on trying to unravel the circumstances of these early hours of the investigation. Numerous interviews were conducted and statements taken. Initially members were very sensitive to the review, especially when questioned in the area of what they may have said to their wives, friends or members of the Force with whom they work.

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or his legal advisor. It is, however, this early indiscretion that caused the Premier to wonder about the motives of the Force, or some of its members, and perhaps conclude that all that occurred thereafter was also the work of the same individuals. At the conclusion of the report I will comment on steps being taken to deal with this aspect of the case.

27. Perhaps the next question to be asked is; why was there so much delay in the laying of a charge? Why was a charge not proceeded with immediately? It is a legitimate question because in normal cases that is exactly what would take place. The possession of marihuana in small amounts for personal use is generally dealt with quite leniently by the Courts. Relatively small fines or absolute discharges frequently are the result. A person charged with this offence often does not suffer much effect with respect to his life or his job, nor is his respect in the community greatly reduced by such an event, particularly because such cases go through the Courts virtually unnoticed and are of little concern to those who are not directly involved. The same cannot be said when the accused is the occupant of high office. The price to be paid in such cases bears no relevance to the seriousness of the offence or the penalty that might be assessed in Court in the event of conviction. That, of course, is the risk to be taken by those who seek high office, but it is also the reason why the police must be scrupulously objective and professional before proceeding with a case against such persons, as the mere laying of a charge, no matter what the final result, can have a very great effect on the individual and all that he represents. It is equally important that the administration of justice not be seen to be slanted in favour of those having important public influence, wealth or political responsibility. It is against that background that the actions of the Force and the Department of Justice should be measured during the subsequent investigation and prosecution of this case.

28. The Commanding Officer "J" Division named Inspector R.W. WALLER to take charge of the investigation. On the 28th September, Chief

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However, when public statements were made to the effect that the Force had conspired to "get the Premier" or "bring down a Government" there was such indignation among the members that the attitude quite changed. Members realized that they were all tarred by the comments made by persons occupying high office in the Province and in an effort to lift the mantle of suspicion cooperated with our internal investigators in their quest to determine exactly what happened.

24. Unfortunately, and despite a very thorough review, the woman caller has not been identified, nor has she come forward to clear the air. It is interesting to note that on the 14th October Mr. Raymond FRENETTE received a call from a woman who refused to disclose her identity. She related the story in very similar terms to that which was given to Mr. WHITE on Sept.26th. Although it is not established for certain it seems very probable that all calls were placed by the same person who, to say the least, was most persistant and determined to bring the matter to public attention. Members have freely admitted too much chatter and have come to realize its consequences. None are able to recollect, or admit, direct discussion with civilians, although several admit to conversations among themselves when civilians were present or nearby, i.e. during Royal Tour assignments in and around Moncton, and at the reception mentioned in paragraph 16. None have admitted being responsible for arranging the leak to the media.

25. In view of the depth of our review I have come to the conclusion that the original leak to the media may well have come about as a result of loose talk, rather than through the deliberate action of a member. This supposition is of course not provable unless at some later time the female who has cloaked herself in anonymity has the courage and decency to come forward and reveal her source. Only in this way would the air of suspicion be removed from all members who, although unprofessional to a degree, never realized or intended that their chatter would be used for devious or improper purposes.

26. It is highly regrettable that members were not more discreet during the early hours of this incident. Despite some uncertainty immediately after the seizure the situation was firmly under control by 15:30 hours when the Commanding Officer took charge of the matter. The investigation should have proceeded in a quiet and professional way from that point forward and not surfaced publicly until a charge was preferred, unless of course public disclosure had come from the Premier

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Superintendent LING and Inspector WALLER interviewed the Premier at his residence. The Premier claimed no knowledge of the marihuana that had been found in his suitcase. During the course of the interview the Commanding Officer advised the Premier that the media were onto the matter. He further advised him that as the investigation was being conducted under the Narcotic Control Act it would be dealt with as a Federal investigation, as is normal in drug cases, and he would therefore not be advising, nor seeking advice from, the Provincial Attorney General. The Premier queried whether he should advise the Attorney General and the Commanding Officer indicated that it was up to him to do as he wished.

29. The investigation continued in "J" Division with the taking of statements, fingerprint examination and the like. Inspector WALLER was instructed to come to Ottawa on the 5th October for a full discussion of the case and the evidence available. This also was a departure from usual practice as, under normal circumstances, minor possession cases are never referred to Headquarters, and certainly not to the level of the Commissioner of the Force and the Deputy Attorney General, however, it was done in keeping with what is said in paragraph 27 above. In any event on that date a meeting was held at the Office of the Deputy Minister of Justice. Present were the Deputy Minister, Mr. R. TASSÉ, and the Assistant Deputy Attorney General (Criminal Law) Mr. D. RUTHERFORD, Inspector WALLER and I. In listening to the facts as presented by Inspector WALLER it seemed to me that the case was one which should be put before a judge for decision. There were, however, some further steps that could be taken in an effort to leave no stone unturned and thus assure that the correct decision was made. These steps included; I quote from Inspector WALLER's report:

> "(a) Mr. Ernest BLAKE (Aiport Manager at Fredericton) be re-interviewed to clarify some of the points in his statement, particularly with respect to the continuity of the suitcase;
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> (b) Mr. BLAKE's fingerprints be obtained for elimination purposes;

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(c) All members who had access to the "control room" and the "safe room" where the suitcase was kept be fingerprinted for elimination purposes. The purpose of this elimination would be to thwart any defense that our members may have handled the exhibit;

(d) I make contact with Mr. Donald M. GILLIS, Counsel for Mr. HATFIELD, for the purpose of:-

(1) Attempting to obtain the suitcase for identification purposes;

(2) Requesting a statement from the Premier clarifying the circumstances leading up to the suitcase arriving at the airport, as well as any comments he may have concerning the last time he may have used the cheque book that was found in the suitcase. If necessary, could access be obtained to his bank records for that account;

(3) Attempting to obtain Mr. HATFIELD's fingerprints for elimination purposes."

30. Steps (a), (b), (c) and (d)(1) were accomplished promptly and without difficulty. Step (d)(2) was declined by the Premier, as was his right. Step (d)(3) lead to considerable delay and equivocation, caused largely by the stand taken by the Premier's Counsel that the fingerprints would be provided but only on certain conditions. The conditions were at considerable variance to normal practice and were not acceptable. This issue was not resolvable and therefore Inspector WALLER was instructed to come to Ottawa for a further review of the evidence as it then stood. A meeting was held at the Office of the Deputy Attorney General on the 17th October and the impasse over the fingerprints was discussed. These discussions continued the next day and the decision was made that there should be one more attempt at getting the Premier's fingerprints in a voluntary way and in keeping with normal procedures.

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31. On the 20th October the fingerprint issue was still unresolved and on that date the Fredericton Daily Gleaner published the first report on this matter. The journalist, Louella BILLINGS, has assured C/Supt. BELANGER that her source was not within the RCMP. However, during the interview, it became clear that her level of detail was such that her source must be very close to the Force and its work.

32. At a meeting held at the Department of Justice on October 24th, attended by Mr. TASSÉ, Mr. RUTHERFORD, Deputy Commissioner JENSEN, Chief Superintendent LING, Inspector WALLER and I, the evidence was thoroughly reviewed and consensus was reached that the matter should be put before a Court. Had there not been consensus I would have instructed that a charge be prefered in any event as, from a police point of view, given the same circumstances that is the way any other Canadian would be treated. The Attorney General could of course decline to prosecute the case if he felt it was unsuitable for prosecution or that it was not in the public interest to carry it forward. However, as consensus was reached, these latter points did not require consideration. At that meeting it was decided that the matter of the fingerprints would be resolved by issuing a summons and including in it the necessity for appearing for the purpose of providing fingerprints in accordance with Section 455.5(5) of the Criminal Code.

33. It is my understanding that at about 3:50 P.M. Ottawa time (that being 4:50 P.M. in Fredericton) Mr. RUTHERFORD advised Mr. J.J. ROBINETTE in Toronto of all that had been agreed to i.e., the charge, fingerprinting, timing and arrangements. Twenty five minutes later Supt. Vermette received a call from a media person in Fredericton saying it had been learned from the Dept. of Justice in Ottawa that a charge was to be laid against the Premier the next day, that an Officer of the Force was returning to Fredericton that evening for that purpose, and they requested confirmation of those facts from Vermette. Quite properly Vermette refused comment but unfortunately failed to record the name of the caller as the call was one among many that had been coming in throughout the day, however, it was the only one with the precise information as to what was taking place, and the fact that it was received so soon after the decision had been communicated to both the Division and Mr. ROBINETTE caused considerable alarm. This alarm was communicated to Mr. RUTHERFORD who took it up

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with Mr. ROBINETTE. Mr. ROBINETTE confirmed that he had relayed the information to Mr. GILLIS in Fredericton after the 3:50 P.M. call he had received from Mr. RUTHERFORD. Mr. RUTHERFORD has advised us that he had no contact with the media during that period of time. My review has satisfied me that there was no leak from within the RCMP. The question left hanging is; who took the trouble to ensure that the media were aware of what was going on, and for what purpose? My internal review does not require that I pursue that question further, however, that leak turned the events of the next few hours into a media circus and events at Fredericton were greatly affected by it. Inspector WALLER'S frustration and difficulty are well stated in the following account.

> "On 84/10/24 a decision was made at a high level meeting I attended in Ottawa to proceed with a charge of possession of marihuana against Richard B. HATFIELD. After obtaining the wording of the Information from Justice Dept. lawyers, I returned to Fredericton on 84/10/25, arriving at approx. 2055 Hrs. Mr. Julian BELTRAME of SOUTHAM NEWS approached me at the Airport. He advised me that he knew I was returning with a decision to lay a charge against Mr. HATFIELD and 'Did I have any comments'. I answered 'No Comment'.
>
> At 2230 Hrs. on 84/10/25, Supt. Jack MacLAUGHLAN, Supt. George VERMETTE and I met at the "J" Division H.Q. and a charge under Sec. 3(1) Narcotic Control Act was drafted against Richard HATFIELD for signature by Judge James D. HARPER. A summons was prepared returnable before Judge Hazen STRANGE in Oromocto which was the Court in the County where the offence occurred. This process was followed on the advice of the Federal Justice Department in Ottawa and their advice was followed insofar as wording the Information. I contacted Judge HARPER at his residence in Fredericton prior to 2300 Hrs. on 84/10/25. I advised him that I had an Information to prefer and was invited to his residence for that purpose. I advised him we would be there shortly after midnight. It became necessary to call him and extend that time to 0100 Hrs. 84/10/26.

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Upon arrival at his home and after perusing the Information Judge HARPER questioned the words 'and elsewhere in the Province of New Brunswick' as well as 'at or near Lincoln'. He felt the former phrase may be duplicitous and the second should more correctly read 'at the Fredericton Airport'. Having said that he conceded that the Information was mine and he had no say in the wording. On his advice, Supt. MacLAUGHLAN (who was with me) and I decided to make the recommended changes and return. Because the necessary forms were not readily available, we would return at 0830 Hrs. on 84/10/26. During our first visit to Judge HARPER and in my subsequent telephone call to him, he stated emphatically that he felt we were committing a grave mistake in having the matter heard in Gromocto in, as he described it 'a converted schoolhouse'. He felt the matter should be heard in the best available facilities in Fredericton. He voiced the same opinion at 0830 Hrs. saying that (a) cases from the Airport are routinely heard in Fredericton (b) the facilities in Fredericton were far superior, and (c) there was no jurisdictional problem as judges from N.B. are appointed provincially. At his urging I had the returnable point on the summons changed to Fredericton. I have since testified at the subsequent trial that this decision was not made in order to choose a particular judge or in any way to prejudice the case against the Premier. I suspected that Judge STRANGE in all probability would disqualify himself because of his previous dealings with the Conservative Party and although Judge HARPER did not say this it seemed to be a reasonable decision. In highsight, it probably was not. Although Supt. MacLAUGHLAN was there I accept full responsibility for the decision.

At 1145 Hrs. 84/10/26 Rodney GILLIS the Premier's lawyer called and stated that Mr. HATFIELD wished to appear in Court at 1400 Hrs. and enter a plea. I advised him no counsel was appointed and I would call him back.

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At 11:47 Cst. THEEDE the Fredericton Det. court member called and advised me that Judge HARPER had just been approached by GILLIS, requesting that the Premier be allowed to appear at 1400 Hrs. Judge HARPER said he had no objection but told THEEDE to tell me Crown Counsel would have to be there.

At 1150 Hrs. Supt. MacLAUGHLAN instructed me to advise GILLIS that the summons would stand as issued. It was suspected that Mr. HATFIELD and his lawyers were trying to circumvent the Identification of Criminals Act requirements on the summons to avoid being fingerprinted. I advised Mr. GILLIS of this decision at 1214 Hrs. I requested his co-operation in personal service of the summons without fanfare and to avoid creating a 'circus'. The press at this time were phoning my office continuously.

At 1315 Hrs. Rodney GILLIS called me requesting a meeting in Judge HARPER's office at which time the summons could be served. I asked him if Judge HARPER would be there or in court. He said he didn't know, which was an obvious untruth. I was aware that Judge HARPER had also called my office advising that I should not come to the Court House due to the press and the obvious strategy of the Defence.

At any rate after discussion with Supt. MacLAUGHLAN I was instructed not to serve the summons in Judge HARPER's chambers or the Court Room for obvious reasons.

Shortly thereafter Rodney GILLIS called back and advised that he would abandon the Court Room idea if I would meet him in the Barristers Lounge at the Court House. At approx. 1415 Hrs. Supt. MacLAUGHLAN and I went to the Court House. We observed that the main entrance was blocked by approx. 20/25 reporters and cameramen. We entered through a side door and found what appeared to be reporters throughout the building on all three floors. We suspected a 'set-up' and left, returning to "J" Div. H.Q.

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At 1458 a call from Rod GILLIS was transferred from my office. He wanted to know why I hadn't met him and I told him exactly why. I indicated I suspected a 'set-up' and tried to leave the impression that I didn't entirely trust his motives.

I asked him to meet me at the RCMP "J" Division Officer's Mess. I stated that way we could avoid the press, we could discuss the matter in private and the summons could be served with the least amount of embarrassment to Mr. HATFIELD.

Mr. GILLIS became angry at this and said 'because of the way the RCMP have treated my client he wanted nothing to do with the RCMP or RCMP property'. I then suggested that we meet at the Premier's home that night at 10 PM. Mr. GILLIS rejected this as well. Mr. GILLIS suggested somewhere downtown, on the street on the parking lot of the Court House. I suggested any other location but the Court House and suggested a parking lot elsewhere. I suggested the City Police Station. None of these were satisfactory to Mr. GILLIS. He said 'we cannot avoid the Press'. He said he would meet me in the Mayor's office at City Hall in ten minutes. I agreed to meet GILLIS on the steps of City Hall. I suspected that Mr. GILLIS would use the press to his advantage but believed we had no choice. The summons had to be served A.S.A.P.

At 1509 Hrs. Supt. MacLAUGHLAN and I met Mr. Rod GILLIS on the City Hall steps. Because we felt the Mayor was a 'Chief Magistrate' and the special powers of the Mayor's Office, Supt. MacLAUGHLAN and I had agreed we would not serve the summons in the Mayor's office. I told Mr. GILLIS this. He had previously advised me there was a large number of 'people' inside. It was evident to me this was to be a pre-staged performance for the press. Mr. GILLIS smirked at me and stated 'you mean you wish to serve the summons here in public'. I stated 'whatever you and your client prefer'.

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> Supt. MacLAUGHLAN and I waited alone on the steps until 1521 Hrs. at which time the door burst open and out came the Premier and his lawyer, led by, and surrounded by T.V. cameramen, press cameramen and reporters. Microphones were stuck in our faces. I shook hands with Mr. HATFIELD and said 'it is my duty to serve you with this document, please examine it and if you have any questions I will be most pleased to respond'. The Premier had no questions but Rod GILLIS immediately started firing questions at me. I tried to answer them as quickly and professionally as I could as it was evident Mr. GILLIS was trying to get me agitated. He finally broke off and left accompanied by the Premier."

Giving full marks to an interested and aggressive media it nevertheless seems certain that they were being kept well advised when and where to be. This was not the work of the Force which, from the earliest moment, when it was discovered that word of the original seizure had leaked, took extraordinary steps to ensure the lid was kept on and to refuse any public comment--much to the chagrin of the media.

34. The summons was returnable the 21st November '84. A number of events occurred between the date of service of the summons in late October and trial which took place on the 28th and 29th days of January 1985. There is no need for me to comment on the jurisdictional and legal issues that are a matter of public record. There is however one further investigational issue that requires explanation.

35. When Premier HATFIELD was first approached by Chief Superintendent LING and Inspector WALLER on the 28th September he said that the marihuana found in his suitcase was not his. He also related that his suitcase was often left unattended in hotels and so forth. He mentioned a trip that he had made to Toronto on Friday September 21st by Provincial aircraft during which his suitcase had been left unattended at the King Edward Hotel. During the latter part of November Mr. David HUGHES, the prosecutor in this case, mentioned to

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Inspector WALLER that he had received vague information with respect to an alleged trip that the Premier had made via Government aircraft during which a pot party was alleged to have occurred. WALLER's reaction was that perhaps it was the Toronto trip that the Premier had referred to and perhaps the source of the marihuana was among the group who had allegedly participated. He therefore asked Mr. HUGHES to attempt to get more explicit information.

36. In early December Mr. HUGHES supplied Inspector WALLER with a photostatic copy of a portion of a letter of unknown authorship. This letter named Peter DAIGLE and Mike KYTE and another unnamed person as having had a party with the Premier and the day following having flown with him to Montreal. Again, this material did not place the event within a time frame and it was thought to have been a recent occurrence and was therefore pursued with vigor. This was done with the full knowledge of prosecuting counsel, indeed at his request, as it was thought to be of importance to the case at hand. A few days later it was determined that the event took place in 1981, but the investigation had proceeded to the point that it could scarcely be left hanging and, in any event, its value as possible rebuttal evidence was apparent.

37. Under the circumstances it was quite proper for the RCMP to investigate this information. It was not done in an effort to dig up old dirt. One might question the motivation of others in causing this old incident to surface again the way it did in late 1984, however, I have satisfied myself that no member of the RCMP had a hand in it, and my review does not extend to actions of others unless there is an apparent violation of the law. When controversy surrounds public figures it is not unusual for stories to bubble out and, here again, the police must use caution in taking the bait, as they may be being used as an instrument for other people's mischief. That may or may not have happened in this case, however, there was no lack of good judgement on the part of either the prosecutor or the police in following this information to its limit. We have been able to trace the routing of this partial

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letter to some degree, but I see no need in commenting upon the motives of anyone who may have assisted in ensuring that this material came to the attention of Mr. HUGHES, and thus the Force.

38. Of greater concern is the fact that this line of enquiry became so public so quickly. We have done our best to trace the circumstances that made such publicity possible but have been unable to come to a conclusive finding as, in order to do so, we would have to go well beyond the mandate of this internal review. It would also require the cooperation of media representatives, lawyers and politicians, none of whom can be compelled to disclose their source and activities to us. But I can say with considerable certainty that this material did not find its way to public attention through the actions of any member of the RCMP. Media sources have assured Chief Superintendent BÉLANGER, on all issues that have been discussed, that their sources were not within the Force, and certainly our internal enquiries have not disclosed any information to indicate differently. The following notes made by Chief Superintendent BÉLANGER, immediately after a discussion with Mr. HILLS of Southam News are supportive of my conclusions:

> "- In response to my general explanation related to the need and scope of the internal investigation as directed by the Commissioner, Hills indicated I should be aware he was in the news business and consequently, this interview would be a two way dialogue just in case my questions revealed information heretofore unknown to him. I agreed this interview was definitely not off the record.
>
> - He then made the following statements after ascertaining that my mandate did not authorize me to investigate in areas beyond the reach of R.C.M.P. administration.
>
> - In reply to my request directed at the existence, content and access to the brown

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envelopes received at Southam News as reported in a 19th February 1985 Globe and Mail article, Hills stated:

> He was fully committed to the protection of his source in Ottawa.
>
> No brown envelopes were ever received because they did not exist.
>
> The brown envelopes were a red herring, a piece of dis-information he created himself for the purpose of protecting his source.
>
> No documents were received by Southam News.
>
> A copy of a document was seen by someone in Southam News and not by Hills himself.
>
> The document was not made available by anyone in the R.C.M.P. In fact, he stated we had nothing to worry about in this regard as Southam News had received no cooperation from the R.C.M.P. in Ottawa and Fredericton on this matter.
>
> He received this significant lead on the 31st January, 1985, that being the Thursday preceding the Gazette article of the 4th February and relayed the information to his reporter Julian Beltrame who had been conducting field investigations. The total sum of the information gathered provided sufficient confirmation to justify publication.
>
> In his view, the 1981 party where Hatfield allegedly provided drugs to students was far more serious than the mere possession of a small amount of marihuana and considering the related issues of morality, he felt justified in publishing the events of that particular evening.

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> He expressed some concern over the fact a criminal charge was not laid in this respect as well as commenting on some unusual occurrences related to the trial itself, particularly the lack of importance attached to the probative value of the fingerprint evidence.
>
> He suggested that if my report was not publicly released in its entirety, new allegations of R.C.M.P. cover-up would result.
>
> He would not reveal additional information as he was satisfied this was all I needed to know for the purpose of the internal investigation."

39. Mr. HILLS was of great assistance to us in confirming that the Force was not responsible for this information becoming public. In my view he is to be congratulated for being so forthright in his assistance. He refused to disclose his source, which is an understandable position for a journalist to take, unless required to testify under oath, but at the same time he went as far as he could to lift the mantle of suspicion from the Force. This is important because the Force and its members should not be unfairly impugned, particularly if false accusations, or suspicions, lead to a lessened public confidence in an institution which bears so heavy a responsiblity on behalf of the Citizens of Canada. It is important that the Premier of the Province of New Brunswick, and even more so that the residents of that Province, come to realize that the Force was only doing its duty and was not the cause of undue publicity other than that which seeped out during the early hours of the investigation.

40. However, Mr. HILLS reference to "brown envelopes" is significant. In a public statement of the 13 February 1985 Premier HATFIELD said, among other things "It is my information that at the same time certain

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representatives of the media throughout the country received unmarked brown envelopes containing the two statements. Who sent the envelopes? Why were they sent?" This comment seems to be one of the elements in the so called conspiracy theory. My question is; from where did the Premier get such information? Although I cannot be sure of all that has been written, it is my understanding that the first media reference to "brown envelopes" can probably be found in an article by Hugh WINSOR published in the Globe and Mail on Feb. 19th, 1985. I quote

> "But the story still made it into print, more evidence of a conspiracy, according to Mr. HATFIELD and to his frequent champion, Dalton CAMP. Even before the allegations of the marijuana and cocaine became public, Mr. CAMP, a close family friend, adviser and frequent speechwriter for Mr. HATFIELD, was on radio and writing columns questioning the role of the RCMP and calling for an investigation. Most recently, Mr. CAMP said the Justice Department deliberately leaked the information about the student pot party to Southam News.
>
> Nicholas HILLS, general manager of Southam, has confirmed that, in response to its probing in Ottawa, the news service received one or more "brown envelopes" after it started working on the story.
>
> Mr. CAMP'S version does not jibe with the story of the reporter who first learned about a potential student witness at the trial. The Globe's Atlantic correspondent, Michael HARRIS, says the story's genesis was more luck than good management. Mr. HARRIS overheard Peter DAIGLE, now a Halifax chef, ask Inspector WALLER outside the

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> Fredericton courtroom about payment of witness fees. Realizing that the young man had not testified at the trial, Mr. HARRIS decided to follow Mr. DAIGLE'S story. Together with Southam's Julian BELTRAME, they tracked down at least one other student who had been at Mr. HATFIELD'S home and another who had seen the group at the Fredericton airport on its way to Montreal.
>
> The story had only a tenuous connection with the marihuana charge against Mr. HATFIELD that had just been dismissed. Could it or should it be printed?
>
> There was much legal consultation in the editorial offices of both Southam and The Globe. In the end, Southam decided to publish the students' allegations, influenced by the confirmation of the affidavits they were able to obtain in Ottawa."

41. As stated in para.38, our review now discloses that there were no "brown envelopes" and that this expression was used only to assist in protecting a source. If there were never any "brown envelopes" who told the Premier that there had been some and thus add to his theory of conspiracy; and what else might they have told him? The Premier's statement indicates his belief that the media was provided with copies of the statements taken from two witnesses. The Globe and Mail article refers to "affidavits they were able to obtain in Ottawa". Our review indicates that it is quite likely that what media representatives saw were neither the statements, nor affidavits, but, if they saw a document at all, it was of quite a different nature. I will not take my conjecture further as I am satisfied that whatever was seen, or told, was not provided by the RCMP.

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42. I am attaching a copy of The Globe and Mail article as it is well worth reviewing. It does contain some errors but it does paint the broad picture rather well. I am personally sensitive to one comment, that being "Mr. Simmonds already was on record as opposed to marihuana possession charges in general". I have never taken that position, and indeed have advocated minimum penalties for minor possession charges. As you are aware I have commented on a different approach to enforcement with respect to minor possession charges, however, I have never taken the position suggested. Unfortunately, if repeated often enough, myth tends to become regarded as reality.

43. I must now comment on one more aspect of this portion of the investigation. After statements had been obtained by RCMP investigators from Mr. DAIGLE and Mr. KYTE, and after I had taken the position rather firmly that their stories were no basis on which to commence a prosecution, a position on which consensus was reached by others in attendance but, had consensus not been reached, I would not have agreed to a member of the Force preferring an Information on the basis of the evidence available, it still remained evident that their testimony might be important in rebuttal should the defence develope along certain lines. The prosecutor and Mr. RUTHERFORD, taking caution to the extreme in order to ensure fairness, apparently concluded that both Mr. DAIGLE and Mr. KYTE should be seen by lawyers of the Dept. of Justice in order to test the "credibility" of these witnesses in the event they were needed. Mr. RUTHERFORD arranged that Mr. Roger Leclaire meet with Mr. KYTE in Toronto. This was done at KYTES apartment in Toronto on the 25 January. Leclaire was in Toronto on that date in connection with another prosecution. He was accompanied by the RCMP member from Toronto who had taken the first statement from KYTE. I need not comment further on that interview, but rather, on two incidents that followed.

44. The interview with KYTE took place in the morning. At about 2:00 P.M. that afternoon KYTE

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received a telephone call from an unknown lady who asked him if he was going to testify. He was upset about this turn of events and promptly left his apartment. Outside his apartment he noted a man with a camera whom he felt commenced to follow him. Mr. KYTE took steps to evade this person. Thereafter he was so bothered by calls from unknown sources that he moved to a friends home to avoid contact. Who were these people? media? private detectives? Are the telephone call and the presence of the man with the camera connected? Did they know of Mr. Leclaire's visit earlier in the day with respect to KYTES' possible appearance as a witness? Was it mere coincidence?

45. The second event occurred a few days later when, on February 1st. at about 4:05 P.M., Mr. Leclaire received a telephone call in his office from Mr. John NUNZIATA-M.P. Mr. Leclaire has provided a very accurate accounting of the conversation that ensued. It is not necessary that I go into detail with respect to that conversation other than to say Mr. Leclaire, faced with an unexpected phone call from a person who obviously knew quite a lot about the case, acquitted himself very well. It is clear that Mr. NUNZIATA made out that he was fully knowledgeable about KYTE, that he was aware that the Commissioner had taken the position that the 1981 incident could not serve as the basis for a prosecution, and that he felt that perhaps the Premier had been given preferential treatment. The questions that arise are, how did Mr. NUNZIATA have the detail that he obviously possessed? How was he aware of Mr. Leclaire's contact with KYTE? Did he learn of this from Mr. KYTE? from media sources who, based on what I have previously related, apparently had an Ottawa source that they were quite anxious to protect, at least at one stage of the game? Was there any connection between Mr. NUNZIATA'S call and what had taken place in Toronto after Mr. Leclaire's visit?

46. In an effort to clarify this situation, and particularly to determine if any member of the RCMP may have had any involvement in this sequence of events, thereby adding to the Premier's allegation that certain members of the Force were out to get him, C/Supt. BELANGER contacted Mr. NUNZIATA on the 17th April to try and arrange an appointment for a discussion with him. Much to our surprise Mr. NUNZIATA went public with this request and, according to a report in the

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Toronto Star dated 19th April, 1985, characterized our approach as a form of harassment. Nothing could be further from the truth, we were only seeking the cooperation of a responsible M.P. in an effort to determine if there was any validity to the Premier's views. Unfortunately the interview with this M.P. has not taken place as, on the 22nd April'85, Mr. NUNZIATA called C/Supt. BELANGER and said he was prepared to meet that afternoon but only in the presence of two reporters. C/Supt. BELANGER quite properly declined. The RCMP does not conduct its' investigations in such a fashion and when dealing with sensitive issues would quite properly be condemned if it did.

47. One further step that we wish to take is to have an interview with Premier Hatfield. It had been determined early in our review that we would at the appropriate moment seek such an interview, however, in view of the serious allegation made against the Force it was felt prudent to leave that until other aspects had been explored. We therefore had no contact with the Premier's office until the 27th March. From the outset the Premier has indicated a willingness to co-operate, however, due to circumstances it has not been possible to arrange a date on which the Premier and his Counsel can meet with C/Supt. BELANGER. It is now hoped that this will take place within the next week or two. The purpose, of course, is to determine if the Premier has any direct information to support his belief that some members of the Force were out to destroy him. Statements that have been attributed to him suggest that he has come to this conclusion as a result of a combination of factors, most of which have been commented upon in this report, rather than by any direct evidence or knowledge. However, if following an interview with the Premier, fresh evidence or leads are disclosed they will be pursued. In the absence of further information there is little more that can be accomplished through the mechanism of internal review.

48. I, and every member of the Force, have deep concern over the remarks attributed to the New Brunswick Treasurer and Acting Justice Minister John BAXTER, as reported in the Toronto Sun on Thursday February 14th, 1985. In an article entitled 'RCMP OUT TO GET ME', the final three paragraphs read as follows

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"N.B. Treasurer and Acting Justice Minister John Baxter, also on the flight, said

"the RCMP is a powerful body and people are afraid to speak out about it.

"There is reason for concern...(about) certain individuals on the Force who want to bring certain politicians to heel.

"Surely it (the Force) shouldn't have as one of its goals a plan to bring down an elected government, but they're trying in New Brunswick." he said."

49. Minister, I wish to assure you, and every Canadian, particularly those living in the Province of New Brunswick, that the RCMP does not have as one of its goals a plan to bring down an elected government, and we have not been pursuing such a course in the Province of New Brunswick.

50. From the minute that marihuana was found in the Premier's suitcase it is fair to say that every member felt it was "a no win situation", that, and that alone, accounts for the early moments of uncertainty in the way the matter was handled. However -

- The Force was not responsible for the media event that was staged at the time of the service of summons.

- The Force was not responsible for bringing the 1981 allegations to the surface.

- The Force did not publicize or leak information with respect to the 1981 affair after Premier HATFIELD was acquitted on the 29th Jan. 1985.

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That all of the above did occur is a fact, and if the Premier concluded that the persons responsible for these events were the same as those who allowed this incident to spread beyond the ranks of the RCMP on Sept. 25/26, his suspicion of the Force, or some of its members, can be understood. Hopefully this report will allay some of those concerns. Admittedly, as it does not clearly establish who may have had a hand in the latter events, an air of suspicion may linger, however, the limits of an internal review do not require or permit that I go further once I have become satisfied that the conduct of members of the Force are not in question.

51. My report does acknowledge too much loose talk, and thus unprofessional conduct at the outset. It was, however, so general in nature that no individual can be singled out as the cause of the initial leak to the media. If that leak had not occurred it is probable that the Premier and Mr. BAXTER might have been less suspicious of the later circumstances. Never-the-less this type of conduct is not acceptable from a disciplined and professional organization and I am therefore taking the following steps internally.

- Instructing that every member of "J" Division be required to read this report, which is in itself somewhat burdensome. But, in requiring every member to read it, it can be assured that those who talked too much will have a clear understanding of the problem it created, and allow all members to reflect upon the oath they undertook as recruits. Each member will be required to acknowledge in writing that he has read the report, that he understands the oath and accepts it as part of his terms of service.

- Instructing that the C.O., or in his absence another senior Officer, attend

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at every in-service training class held within the Division over the next twelve months to have an open discussion with members on all aspects of professional police conduct.

52. I do not enjoy taking such a broad sweep in this matter because I am well aware that almost without exception the members of "J" Division well meet the standards expected of them and I am proud of their accomplishments. However, in the absence of being able to identify those who may have let the side down I must take these steps in order to ensure that conduct, and thus public confidence, remains high.

53. I, of course, do not have anything to say about the conduct of others, but I believe the following comments are needed. Serious censure has been bestowed upon the Force. It should be established as fact or be withdrawn. In determining what, if anything, more should be done, I believe the following points should be kept in mind -

(i) The person, whomever that may be, that put the marihuana in the Premier's suitcase, is the person most responsible for all that has occurred. That single foolish and illegal act is what has caused all this concern, pain and anguish to come about.

(ii) The unidentified woman, who invoked the media so early in the piece, is the originator of events that led to mistrust of RCMP motives in this affair. That person, rather than skulking about 'neath her cloak of anonymity', would do a great service if she came forward and identified the source of her knowledge. If she was the agent for an ill intended member of the Force such should be disclosed and dealt with. If she was not, the members of "J" Division deserve to have the mantle of suspicion lifted from their shoulders in the name of fairness and in order that full political and public confidence in the Force be restored in the Province.

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(iii) The Force has acknowledged its impropriety under very provocative circumstances and has taken steps to deal with that issue. However, I have no evidence to suggest malice on the part of any member and, unless the lady referred to in (ii) above comes forward and establishes otherwise, such should be accepted.

(iv) The investigational techniques, given the circumstances of the case, were not inappropriate. The Force would have been criticized if they had not been followed equally as much as we have been for pursuing them in detail.

(v) There is no evidence at all to suggest that the Force was behind the surfacing of the 1981 incident in Dec. of 1984. Nor that the Force had any part in leaking this information to the media, or a member of Parliament, after the trial. Both the media, and the member of Parliament, have declined to identify their source, however, the media have said it was not the RCMP. Perhaps there is even doubt as to what they actually did see or hear. The member of Parliament has not co-operated with us in a manner that is useful in shedding light on this aspect of the matter.

(vi) When a highly placed political figure becomes involved in any way with matters of this nature it can be assured that the media hounds will come out at full bay. Such circumstances can also greatly tempt persons of differing political or policy persuasions to take an inordinate interest in all that is taking place. Each of course have their proper role in democratic society and if done responsibly and without malice there should be little complaint. If done in any other fashion it of course says more about them than it does their target.

(vii) I can assure that at no time throughout this investigation has there been any interference or improper direction given to the Force by the Premier of New Brunswick, the Attorney General of New Brunswick, the Attorney General of Canada or

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the Solicitor General of Canada, nor any other Minister or agent of either the Federal or Provincial Administration. Had any been attempted it of course would have been rejected. I will comment further on this in an addendum to this report in view of the questions raised by the Hon. Bob KAPLAN in Justice and Legal Affairs Committee on the 14 March, 1985.

54. There remain some issues of significant peripheral interest that require comment. In his judgment His Honour Judge HARRIGAN comments on the possibility of the marihuana being planted in the Premier's suitcase and, through a process of analysis of the evidence given by members of the Force, leaves an open question, that being; could Mr. RYAN have had a hand in such activity? That possibility was thoroughly investigated in "J" Division and it was concluded that Mr. RYAN was not in any way improperly involved and his knowledge of this affair came about as described in this report. It will be noted in para.19 that during contact with "J" Division on Sept.27th Mr. RYAN had said that his source was a female member of the Royal Visit Organizing Committee. In delaying the commencement of the internal review until after the trial I had always thought we would be able to go almost directly to the source and learn how she had become so knowledgeable. However, when our review commenced after the trial Mr. RYAN maintained that he learned of the matter through Mr. WHITE, and in the manner described by WHITE. He maintains that his earlier statement was just a ruse in the hope that it would encourage conversation and confirmation of the story. However, because of this deception, we started on a cold trail rather than being able to go directly to the source as we had expected. Not one bit of evidence has been found to indicate a plant. The Premier's position from the outset has been that he had no knowledge of it and, in the case of Mr. RYAN it has been determined as positively as is possible that he had no involvement. This conclusion then leads to another worrisome question; if Judge HARRIGAN's open question is answered in the negative, must one conclude that members of the Force gave false evidence during the trial?

55. Throughout this report I have shown at least "loose talk" early in the event. I therefore went through the transcript of evidence carefully and

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compared the evidence given by members against the subsequent findings of our internal review and came to my own conclusions that there was no basis to conclude that any member may have tendered perjured evidence. However, not being satisfied that anyone would consider that I was competent to come to such a conclusion on my own, I asked C/Supt. BELANGER to submit all the material to the Director of Legal Services - RCMP for his assessment. The Director, Mr. Bruce A. MacFarlane has provided his views in writing and has concluded that there is no basis whatsoever to consider that perjury may have occurred and, as there is no basis for suspecting such, there is no need to refer this matter to the Attorney General of the Province. I point that out because, as a matter of policy and practice, when any member is suspected of criminal activity a full report is submitted to the Attorney General and his direction with respect to prosecution is sought. This is done to ensure that there can be no suspicion that the Force would bury any criminal misconduct on the part of its' members, however, in the absence of any reason to believe there is a criminal offence there is of course nothing to refer. I will, however, discuss this issue with the Honourable F.G. DUBÉ, Att. Gen. in the near future to ensure that he is satisfied. If this report does prompt the "unidentified lady" to come forward, and if her story should implicate a member that gave testimony at the trial this issue would get a second look and the instructions of the Att. Gen. would be sought.

56. One last comment with respect to the media reporting of this affair. In analyzing much that has been written there seems to be a thread of conjecture that but for the publicity given to this matter the whole affair would have been covered up by the Force. This view is perhaps best illustrated by a quote from Mr. WINSOR'S article that I previously referred to, wherein it is stated;

> "Out of it all comes the real possibility that Mr. Hatfield himself exacerbated his predicament by demanding a secret meeting with Mr. MacKay to discuss the investigation. Although the debate about whether to charge the Premier wracked the highest levels of the RCMP and the Justice

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> Department for weeks, once the news of the marijuana seizure became public, the officials had little choice but to lay charges. To have done otherwise would have created the appearance that Mr. Hatfield had killed the investigation during his meeting with Mr. MacKay."

Such speculation is not limited to that article and I only use it to illustrate. Such supposition is of course naive nonsense and demonstrates an abysmal lack of understanding of how the decision-making process works on the part of some scribes. The truth is that from the moment C/Supt. LING confirmed that the marihuana was to be seized, shortly after it was found, the process ground on without fear, favour or affection. Perhaps overly slow and cautious, but never-the-less moving to its inevitable conclusion. I, as Commissioner of the Force, seeking professional views from competent people within the Force and the Dept. of Justice, came to certain conclusions and gave the necessary direction. If journalists believe that by making this matter public the decision-making process was effected they greatly overestimate their influence and importance, and quite underestimate the calibre of public officials who must make decisions on the basis of facts that are before them, and not on the basis of political intrigue or influence. The need for an aggressive media, that from time to time may exercise a minor degree of license, is of course necessary to ensure that public business is conducted appropriately and with integrity. However, speculation based on inadequate facts is dangerous as it is not in anyone's interest that there be a lessening of confidence in institutions, or persons who have responsibility for the conduct of public affairs, on the basis of conjecture or rumour.

57. I can take this matter no farther. I challenge anyone who possesses information that a member of the Force has behaved improperly in this matter to come forward in order that their belief can be investigated. If it is established to be true it will be punctually and properly dealt with, and in the process all other members will be freed of suspicion.

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In the absence of such information, I will continue to have full confidence in the members of "J" Division and their commitment to service on behalf of the people of New Brunswick and Canada.

58. This report leaves a number of interesting questions unanswered, however it would be quite improper of me to use the mechanism of an internal review of RCMP conduct as a vehicle for comment on the actions of others, beyond that which is needed to properly put into perspective the role played by members of the Force. Premier HATFIELD has made serious allegations against the Force, or some of its members and, as I said at paragraph 53, these allegations should be established as fact or be withdrawn. I believe, that despite the lack of definitive answers to questions that are beyond the scope of my review, this report may be helpful to those who are willing to see the role of the Force in a more optimistic light. There have, of course, been several calls for a public inquiry into this matter. It is not for me to comment on the need for such a process beyond pointing out that if the air of suspicion with respect to the Force, and the motives of its members in the Province of New Brunswick, is not lifted I will find it difficult to accept that the matter has been resolved to the satisfaction of anyone. If, however, this report is useful in allowing judgements to be made without the necessity of creating another forum where every person - policeman, politician, media representative, government official, lawyer and the public could be subpoenaed and put under oath and every last bit of information extracted, it will have been a worthwhile effort. What is important now is to get back to work on behalf of the citizens in an atmosphere of confidence and trust, having once again clearly established that to err is human. This whole episode is a tale of human conduct, starting with the person who put the marihuana in the Premier's bag and then, following its' detection, the interaction between humans as knowledge grew in ever widening circles until all that had any part of it, no matter what their responsibility, interest or motivation, became emeshed in a creation that grew and grew far beyond that which the initial seed should have spawned. The event was small, the personalities were big, perhaps the result was inevitable.

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59. The addendum referred to in para.54(vii) is attached. Also attached is a copy of the public statement made by Premier Hatfield on the 13th of Feb. 1985, along with a copy of the Globe and Mail article dated February 19th, 1985. We have five volumes of newspaper clippings on file respecting this issue in the event that you wish to further review public comment and concerns that have been reflected since the 20th Oct. 1984.

R.H. Simmonds
Commissioner

ADDENDUM to report on RCMP investigation of the HATFIELD Case.

1. In para.54 (vii) I outlined that no minister, nor any other person, in either the Federal or Provincial Administration, attempted to give any improper direction or in any way influence the police decisions that had to be made as this case progressed. I had been on leave for two weeks during the latter part of January and early February, 1985. When I returned to duty on February 11th I found that the media was a-buzz with respect to a meeting that had taken place between the Hon. Elmer MacKay and Premier Hatfield at Ottawa on the 7th October, 1984. It was being suggested that the Solicitor General may have given improper direction to the Force as the result of that meeting.

2. As the Solicitor General had maintained a perfectly proper position vis-à-vis the Force throughout this investigation I felt compelled to speak out, entirely of my own volition, to set the record straight. This I did through several telephonic discussions with print, T.V. and radio personalities on the 11th February. I made two principal points. Firstly, that the Solicitor General had not in any way influenced our work or our decision making, and secondly, that had he attempted to do so it would not have been accepted as it would have been an unacceptable interference with the principle of police independence and discretion. Such being the case and, as at the time the Minister met with the Premier, no charge had been laid, I did not find that the meeting was offensive or dangerous insofar as our work was concerned. It had absolutely no effect on what we were doing.

3. At a meeting of the Justice and Legal Affairs Committee on the 14th March, 1985, the Honourable Bob KAPLAN made the following comment and posed the following question;

> "Thank you, Mr. Chairman. I have a lot of subjects I would like to cover, but I have no doubt that the most important to me is a difference that has been expressed between you, Mr. Minister, and me about the powers and responsibilities of the Solicitor General. I would like to take a few minutes to clarify that. I find myself also on this occasion, which is a

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very rare one, in almost complete disagreement with some statements attributed to the Commissioner of the RCMP, and so what I would like to do is refer to those statements and set out for you the theory on which I believe the Solicitor General is accountable to Parliament for the operations of the RCMP and have your views about it.

You have been critical of a position I have stated on a number of occasions that I think what is described in section 5 of the RCMP Act is the position-and it is to be taken literally-which is that the Commissioner operates under the direction and subject to the direction of the Solicitor General. Now, I interpret that to mean that if the Solicitor General gives a direction to the Commissioner and that direction is lawful, it is to be obeyed. Of course, if it is unlawful, it is not to be obeyed. No official can obey an unlawful order. So if you tell the Commissioner to send some people to beat up some of your enemies, that order should be disobeyed, but if you tell the Commissioner to discontinue an investigation or to begin an investigation, I consider that to be a lawful order.

Now, I want quickly to add that I consider that to be an improper order in normal circumstances. I consider that to be an order which flies in the face of the tradition of the RCMP, which is a tradition of independence and a tradition which the Solicitor General must respect, at his peril. But when in an appropriate case he intervenes, if the Commissioner... I believe I can quote him. He says:

> "In the end, we have our independent right to conduct investigations based on reasonable grounds, and no Minister can order us not to."

If that is an accurate statement of the position, then we live in a police state. We live in a state where the police can defy a lawful order from the civilian authority.

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Now, I think a responsible and sensible Commissioner who received an improper order-close this file or lay off so and so- a Commissioner who received an order such as that would perhaps think twice before replying. I would think, for example, it would be entirely proper for him to call on the Prime Minister and say: Your Solicitor General has given me this order; what are your views about it? In circumstances such as that, the Prime Minister could say he would speak to him about it or that he has to go if that is the kind of order he is giving, or the Prime Minister could say: Do it; he is the Minister.

In a case such as that, I think a Commissioner of the character of the present Commissioner would probably resign, in the way Mr. Nicholson resigned when he received a lawful order from John Diefenbaker with which he did not agree. I do not want to get into the history of that, but there is no question, in my view, that when a lawful order is given by the Solicitor General under section 5 of the RCMP Act, it is to be obeyed.

Now, I am not surprised that this type of issue is viewed as almost theoretical, because it happens very rarely, and it should happen very rarely. But there are circumstances in which it would be right for the Solicitor General to give an order on these matters. That is the reason - and I will come to that after you have had an opportunity to comment on that - why I do not think you should sit down in normal circumstances with people who are under investigation, especially not in the kind of circumstances in which you did, where you are refusing to say what you did as a result of the meeting, where no officials were present other than a partisan appointee whose job is to make you look good. You know, the chef du cabinet who is not there representing the independent tradition of the RCMP, quite the contrary. So what I want to put to you as my first question is whether you do not agree with the version I have just outlined of your powers and responsibilities in relation to the Commissioner of the RCMP."

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4. The Solicitor General provided his answer to the question and I was then invited to respond. Before having the opportunity to do so the ringing of the Division Bells brought the meeting to a close. The question was not further discussed at the next sitting of the Committee. The issue is important because, if the Honourable Mr. KAPLAN is correct, I too, would be greatly concerned if the Solicitor General were to meet with suspected or charged persons and then have it within his power to direct the police as to what they could or could not do. With the greatest of respect, however, I do not accept that his position is correct. My reasoning is as follows

(i) Section 5 of the Royal Canadian Mounted Police Act reads as follows

> "The Governor in Council may appoint an officer to be known as the Commissioner of the Royal Canadian Mounted Police who, under the direction of the Minister, has the control and management of the Force and all matters connected therewith."

(ii) Section 17 of the Royal Canadian Mounted Police Act reads as follows

> "(1) The Commissioner, and every Deputy Commissioner, Assistant Commissioner and Chief Superintendent, is 'ex officio' a justice of the peace having all the powers of two justices of the peace.
>
> (2) Every Superintendent and every other officer designated by the Governor in Council is 'ex officio' a justice of the peace.
>
> (3) Every officer, and every person appointed by the Commissioner under this Act to be a peace officer, is a peace officer in every part of Canada and has all the powers, authority, protection and privileges that a peace officer has by law.

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(4) Every officer, and every member appointed by the Commissioner to be a peace officer, has, with respect to the revenue laws of Canada, all the rights, privileges and immunities of a customs and excise officer, including authority to make seizures of goods for infraction of revenue laws and to lay informations in proceedings brought for the recovery of penalties therefor.

(iii) Section 18 of the Royal Canadian Mounted Police Act reads as follows

"It is the duty of members of the Force who are peace officers, subject to the orders of the Commissioner,

(a) to perform all duties that are assigned to peace officers in relation to the preservation of the peace, the prevention of crime, and of offences against the laws of Canada and the laws in force in any province in which they may be employed, and the apprehension of criminals and offenders and others who may be lawfully taken into custody;

(b) to execute all warrants, and perform all duties and services in relation thereto, that may, under this Act or the laws of Canada or the laws in force in any province, be lawfully executed and performed by peace officers;

(c) to perform all duties that may be lawfully performed by peace officers in relation to the escort and conveyance of convicts and other persons in custody to or from any courts, places of punishment or confinement, asylums or other places; and

(d) to perform such other duties and functions as are prescribed by the Governor in Council or the Commissioner.

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(iv) I accept that the Minister has broad powers of direction over the Commissioner with respect to the Commissioner's control and management of the Force, and all matters connected with that control and management. However, I do not accept that the Minister's powers of direction over-ride the inherent responsibilities, authorities and powers that are given to every member upon appointment to the office of "Peace Officer". By virtue of Section 17(3) the Commissioner, and every other regular member of the Force, is a Peace Officer.

(v) The Office of "Peace Officer" or "Constable" has its roots in the Common Law. It is not to be taken lightly and it is my belief that much of the Common Law of England applies to that position as it is understood in Canada. I have never been able to find much Canadian jurisprudence with respect to the question, however, have for some time believed that the principle to be guided by is that which can be found in the case of R. v. Metropolitan Police Commissioner, Ex parte BLACKBURN in which Lord DENNING, M.R. states

> "The office of Commissioner of Police within the metropolis dates back to 1829 when Sir Robert Peel introduced his disciplined Force. The Commissioner was a justice of the peace specially appointed to administer the police force in the metropolis. His constitutional status has never been defined either by statute or by the courts. It was considered by the Royal Commission on the Police in their report in 1962 (Cmnd. 1728). I have no hesitation, however, in holding that, like every constable in the land, he should be, and is, independent of the executive. He is not subject to the orders of the Secretary of State, save that under the Police Act 1964 the Secretary of State can call on him to give a report, or to retire in the interests of efficiency. I hold it to be the duty of the Commissioner of Police, as it is of every chief constable, to enforce the law of the land. He must take steps so to post his men that crimes may be detected; and that honest citizens may go about their affairs in peace. He must decide whether or not suspected persons are to be

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> prosecuted; and, if need be, bring the prosecution or see that it is brought; but in all these things he is not the servant of anyone, save of the law itself. No Minister of the Crown can tell him that he must, or must not, keep observation on this place or that; or that he must, or must not, prosecute this man or that one. Nor can any police authority tell him so. The responsibility for law enforcement lies on him. He is answerable to the law and to the law alone. That appears sufficiently from Fisher v. Oldham Corpn. (14), the Privy Council case of A.-G. for New South Wales v. Perpetual Trustee Co. (Ltd.)(15)."

This citation is a portion of a lengthy judgement that can be found in All England Law Reports [1968] I All E.R.

5. The Honourable Mr. KAPLAN characterizes the position that I believe to be correct as being tantamount to that of a "police state". Again, I respectfully defer. The Office of Constable, with its' original powers, seems to have been most deliberately structured as outlined to ensure that the more common definition of a "police state" not be allowed to develop. The more common definition being that a police state emerges when a Government uses its' police agencies as instruments of repression against the citizens of the state. It is against that very concern that the police are given a high degree of independence. Nor is it a dangerous degree because, after all, there are many ways that a capricious Commissioner can be called to account, or an errant Constable disciplined. The Commissioner is appointed "at pleasure". His estimates can be constrained, and the actions of every Peace Officer come under the eyes of the Courts.

6. The Honourable Mr. KAPLAN further takes the position that the Commissioner has no choice but to accept direction on all matters, including who he may or may not investigate or charge, and if he disagrees with the direction his option is to resign. I do not necessarily agree. The Commissioner is not appointed by the Minister, but rather by the Governor-in-Council under the Great Seal of Canada. If a Minister tried to limit the Commissioner's discretion under his inherent

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powers as a Peace Officer, as opposed to his responsibilities for the management and control of the Force, I believe he could just ignore such direction and let the Minister take his case to the Governor-in-Council to seek the Commissioner's dismissal. The result would be interesting to see. The case of Commissioner NICHOLSON, which was referred to by the Honourable member, is not parallel. As I understand that situation the Minister of the day refused to support the Commissioner on an administrative matter that required the Minister's consent, that being to transfer personnel between Provinces to deal with an emergent situation. When the Minister refused to give his consent, thus severely challenging the Commissioner's professional judgement and his leadership of the Force in the face of a crisis, the Commissioner did what most honourable men would do. He tendered his resignation. The distinction being, of course, that the Minister did not challenge the Commissioner's authority as a Peace Officer, but rather his judgement and leadership.

7. I have outlined my views in some detail as it puts the meeting between the Minister and the Premier in a different perspective. The Minister is not the Attorney General responsible for prosecutions, and as, if I am correct, his powers to direct are as described, it is of little importance to me, as Commissioner, with whom he meets. Had a charge been preferred, and had the meeting been with the judge on the case the matter would be quite different, but that is not what occurred. In any event the Minister described to me the tone of his conversation with the Premier and he, the Minister, gave me no direction.

8. In bringing this to a close I should make it clear that I am not a lawyer. My views have been arrived at over years as a practicing policeman and my laymans interpretation of the law as I find it. In any event I believe the question to be much more theoretical than real as there have been five honourable gentlemen who have occupied the position of Solicitor General during my tenure as Commissioner, and not once have I felt that my right to investigate, when there was a reasonable apprehension of criminal conduct, or not to investigate if I could find no grounds, has in any way been threatened at any time.

R.H. Simmonds
Commissioner

SECOND ADDENDUM to report on RCMP investigation of the HATFIELD Case.

1. At para.47 of my report to you I mentioned that there was still one step that we wished to take before completing our review, that being to interview Premier HATFIELD for the reasons stated. I can now report that C/Supt. BELANGER was able to meet with the Premier, in the presence of his lawyer, on the 14th May '85. I will now quote directly from the notes that C/Supt BELANGER compiled during the course of his meeting with the Premier.

1. "As previously arranged, I met Lawyer Ronald Gillis at the Lord Beaverbrook Hotel in Fredericton at 7:30 PM, 85-05-14 and proceeded to the residence of Premier HATFIELD where he was interviewed at 7:45 PM. Aside from identifying the previously agreed issues to be discussed, Mr. Gillis' participation throughout this fifty minute interview was very minimal."

2. "Following my opening remarks regarding the general scope and purpose of this internal review, the timing of the interview and his status as a complainant, Premier HATFIELD directly enquired as to the circumstances which surfaced in public the fact that he had not yet been interviewed. I attributed this development to information provided by the Commissioner to the Justice and Legal Affairs Committee, a public forum. When Mr. Gillis referred to a newspaper article linking John Nunziata's name to this matter, I informed him that Mr. Nunziata was a member of this House Committee. The Premier appeared to be satisfied of my explanation. (The precise facts were that during a meeting of the Justice and Legal Committee on the 26th March, 1985 M.P. Svend ROBINSON asked me the direct question, "I see. Has the Premier been interviewed as a part of this investigation?" In response I said, "No, he has not, not at this stage at least").

3. "With respect to the distribution of brown envelopes as recorded in the Premier's public statement of 85-02-13, he stated as follows:

- in consideration of the relationship he entertains with many people in his capacity as Premier of New Brunswick, he did not feel it would be appropriate

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to reveal the identity of the person(s) who provided this information to him

- although the term "brown envelopes" could have been a euphemism, what really mattered was the content, namely, the statements of the individuals who later appeared on television

- his source did not know how the said statements had been obtained - either from the individuals involved or from an official agency. Originally unaware of the role played by the Federal Department of Justice, he suspected the statements had been provided by the R.C.M.P.

- he had no knowledge as to the exact nature of the documentation provided or the manner of distribution

- he received this information some time between the publication of the Montreal Gazette article (85-02-04) and the date of his public statement (85-02-13)

- understandably disturbed by the fact the media had acquired knowledge of the seizure at the Fredericton Airport before he was informed by C/Supt. LING, he had every reason to believe that the distribution of brown envelopes was credible information".

4. "Premier HATFIELD then confirmed statements attributed to him by the Canadian Press to the effect that:

- some members of the R.C.M.P. deliberately leaked information about the investigation into a drug charge laid against him last fall

- "It's not all the R.C.M.P., it's one, two or three members. A few bad apples don't mean the whole barrel is rotten" (or similar wording)

- some members of the R.C.M.P. have been spreading rumors and innuendo about me for years

... / 3

- he could not recall declaring himself in support of a statement attributed to John Baxter "that certain officers may be trying to bring down the Government

- he then emphasized the above quotes were not to be interpreted as a broad indictement of the R.C.M.P. In his dealings with the media, he took particular care to qualify his remarks as being directed to a few members and not the Force in general".

5. "Premier Hatfield does not possess any evidence or specific information in support of his beliefs. Had it been available, such evidence would have been communicated to the proper authorities. This reaction reflects the position he adopted during heated exchanges with the Opposition in the New Brunswick Legislature."

6. "Generally speaking, the Premier's apprehensions toward the R.C.M.P. appeared to be deep seated and of long standing. Genuinely concerned about leaks affecting the performance and integrity of Governmental Organizations and Departments, he is of the opinion that continued efforts must be pursued by responsible authorities to curtail such unacceptable occurrences. His primary concern about suspected leaks from the R.C.M.P. aimed at the administration of his Government is principally based on the following two events:

1) the kick-back investigation of the mid-1970's when a considerable amount of detailed and accurate information was made available to the press

2) the leak of the information concerning the Fredericton Airport drug seizure in consideration of the fact that the members involved testified under Oath they had respected the directive issued not to discuss this matter among themselves or with anyone outside the R.C.M.P.

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7. "Consequently, although he admitted the leak of the drug seizure could have been the result of carelessness, the fact remained, in his view, that such a state of affair does raise serious consequences which must be addressed by responsible authorities."

8. "In response to his observations, I conveyed to him the Commissioner was equally concerned and that every effort was undertaken to seek the truth as the central question of organizational integrity was of paramount importance."

9. "Addressing the question of the eventual disposition of the result of this interview, Premier HATFIELD wondered if he would be treated equally and whether I could give him a firm commitment that his answers would remain confidential or publicly released. In formulating his question, the Premier apparently confused the standards of confidentiality normally surrounding a criminal investigation as opposed to the different requirements associated with the findings of an internal review which may call for a high level of public accountability. Aside from clarifying this apparent confusion, the Premier was advised the result of this interview would be accurately reported to the Commissioner. No commitment could be given or expected in terms of how the information would be used as this decision rested with the Solicitor General of Canada in consultation with the Commissioner. Somehow, I was left under the impression he wanted the product of this interview to be made public."

2. It will be seen that the Premier's input does not provide any further leads that can be pursued through internal review. His suspicion of the motives of some members of the Force is deep-rooted and, I hope, falsely placed. Perhaps upon the release of this report some of his deepest concerns will be allayed, however he may not be ready to accept that Force members had little to do with much of the publicity that surrounded the marihuana investigation in view of my inability to pin down the actions and sources of others who have had so much to say. I can go no further through the authorities that are available to me under the R.C.M.P. Act and, if more

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is needed, some other forum is required. My own view is that such an inquiry would accomplish little other than provide public entertainment while every person who has had anything to do with this matter, and all the peripheral issues connected with it, were examined under oath as to their exact conduct and knowledge, by a battery of lawyers representing varying interests. I am satisfied of the integrity of the R.C.M.P., other than for that which is outlined early in my report, and I have reported how I am dealing with that. If all other players similarly take stock of their role with a view to their future conduct it seems to me that the matter should now be put to rest.

R.H. Simmonds
Commissioner

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THE TRIALS OF RICHARD HATFIELD

A chronicle of credibility

By HUGH WINSOR
Globe and Mail Reporter

FREDERICTON — About 9 o'clock on a sun-drenched September morning, a chartered bus careered off the winding, two-lane Oromocto road on to the access road to the Fredericton airport. When it braked to a halt in front of the small terminal building, 23 RCMP officers in full uniform poured out of the bus and into positions around the airport.

Several moved to a large "control" room on the third floor, where a special radio transmitter had been installed. One officer took over the airport manager's office and designated it the "safe" room, while others fanned out on to the airport roof.

If there were palm trees in the background, or movie cameras rolling, it could be the scenario for a coup d'état. Moreover, if the accusations of New Brunswick's acting justice minister, John Baxter, are taken to their logical conclusions, the scene was part of the RCMP's "plan to bring down an elected government."

The Mounties were in a hurry because they were half an hour late to establish the security protection for the Queen and Prince Philip, whose special plane was to arrive two hours later, at 11 a.m., last Sept. 25.

It was the beginning of a sequence of events that eventually led to a charge and subsequent acquittal of New Brunswick Premier Richard Bennett Hatfield for possession of marijuana; to Mr. Hatfield's protestations that he had been mistreated by both the press and the criminal justice system; and to Mr. Baxter's claim that the national police force was trying to bring down the Government of New Brunswick.

In the process, Mr. Hatfield also has made serious allegations of a conspiracy "to disgrace me and force my removal from office." The alleged conspiracy involves an unnamed person or persons who Mr. Hatfield says planted marijuana in his suitcase and "orchestrated these new false accusations" about a drug party at his home.

Mr. Hatfield also has accused some members of the RCMP of being "out to get him," of spreading innuendo and rumors about him and of leaking information about the marijuana seizure and subsequent police investigation.

From the resulting furor, a remarkable story has dribbled out. It details a whole fabric of special treatment accorded a special suspect. That, in turn, has brought persistent calls for the resignation of Solicitor-General Elmer MacKay and raised questions about the impar-

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● From Page One

tiality of Justice Minister John Crosbie, who endorsed the Hatfield acquittal while he was still responsible for deciding on a possible appeal.

Out of it all comes the real possibility that Mr. Hatfield himself exacerbated his predicament by demanding a secret meeting with Mr. MacKay to discuss the investigation. Although the debate about whether to charge the Premier wracked the highest levels of the RCMP and the Justice Department for weeks, once the news of the marijuana seizure became public, the officials had little choice but to lay charges. To have done otherwise would have created the appearance that Mr. Hatfield had killed the investigation during his meeting with Mr. MacKay.

THE TENDRILS of this story never stop. In acquitting Mr. Hatfield, Chief Provincial Court Judge Andrew Harrigan pointed a finger of guilt at a television reporter who was not charged, had not been near the airport and against whom no evidence had been adduced. The reporter, Pat Ryan of Atlantic Television, was singled out because he received a tip about the drug seizure and tried to check it out.

The judge's treatment of the reporter sparked another outrage, including demands for the creation of a judicial council to discipline errant judges.

On the other side, there are some nagging questions as to whether the news media have gone too far by raising incidents and evidence not dealt with in the trial.

So much that is special about this case comes back to the special circumstances of the royal tour. To deal with the various allegations and questions about the case, it is necessary to trace some of those special circumstances to their conclusion.

Most obviously, the Mounties wanted to avoid embarrassing the Queen and her host while she remained in the province. So they departed from usual investigative procedures. That, in retrospect, may have damaged their legal case.

That Mr. Hatfield, or at least his suitcase, was drawn into the web was in itself a last-minute circumstance — adding a layer of complexity to the conspiracy theory laid out by the Premier. If, as he charged last week, someone intent on destroying him planted 35 grams of marijuana in his suitcase at the airport on Sept. 25, the person or persons would have to have been both adroit and lucky.

Assuming they had not had prior access to his suitcase, they would have to have known that Mr. Hatfield's travel plans were switched that morning from the provincial Government plane (where there would be no baggage examination) to the royal plane (where all parcels or luggage would be scrutinized).

Moreover, they would have to have penetrated the elaborate security at the airport to go to the second-floor office of the assistant airport manager during the brief period that Mr. Hatfield's unmarked and untagged suitcase was left there.

The only other scenario would place the blame on one of the RCMP officers on the security detail who had brought along a plastic bag of marijuana on the off chance that this would be his day to "get" the Premier. According to the testimony at the trial, none of the Mounties present was aware of Mr. Hatfield's plans, however, until the airport manager asked them to put the Premier's suitcase on the royal plane.

The Queen had arrived at the airport on time and had departed for a day of activities in downtown Fredericton. The man on the security detail had only to check a blue-black garment bag and see that it got aboard the royal plane.

Until then, the royal visit had been boringly smooth from a security point of view. Then, about 2:20 p.m., Corporal Jack Hoffman, an 18-year veteran of the force usually stationed 200 kilometres away in St. Stephen, put his hand into the upper left-hand pocket of the garment bag.

Cpl. Hoffman withdrew a brown envelope and glanced at Staff-Sergeant Thomas Robertson, a 25-year veteran who was in charge of airport security that day. "What about this?"

"Open it," Sgt. Robertson ordered. That is when they saw the plastic bag filled with what was referred to in later testimony as a "dry, plant-like material." But several of the nine officers in the room had done drug work before; they knew they were looking at marijuana.

Usually, police officers would seize the suitcase and confront the owner. The owner, however, was Premier Richard Hatfield; in the main compartment of the suitcase was the tuxedo he was to wear as host of a state dinner for the Queen that evening. Nothing in the service manual covered the situation.

The Mounties began a desperate series of calls to headquarters for instructions. The commanding officer, Chief Superintendent Denis Ling, could not be reached; he was with the royal party at Mr. Hatfield's invitation.

The debate in the control room continued as the hour approached for the official party to return. The Mounties even considered replacing the plastic bag and looking the other way. The acting commanding officer, Superintendent George Vermette, usually in charge of administration, could not reach his opposite number responsible for criminal investigations, who was away on a course.

The joint drug squad composed of RCMP officers and local police was involved in a drug cleanup. Raids on Fredericton High School and rock concerts were causing havoc and heartache. The sons and daughters of prominent families were acquiring criminal records and having career options destroyed.

COULD THE RCMP make an exception for the Premier of the province?

Finally, Supt. Ling was located. He did not want to disrupt the royal tour or embarrass anyone. He knew that, if Mr. Hatfield had to play host to the dinner in the same clothes he had worn all day while the Queen wore her tiara, the press would be on the story in an instant.

Keep the bag but let the suitcase go, and don't tell anybody, he ordered.

The next day, Sept. 26, Supt. Ling informed RCMP headquarters in Ottawa, and the Solicitor-General was briefed. The usual practice is to send drug samples for identification to the Halifax laboratory by registered mail, but, this time, they were taking no chances. Sgt. Robertson drove to Halifax with the sample and waited until the next day for the results. In the meantime, a fingerprint expert was working on the plastic bag.

The RCMP did not contact Mr. Hatfield, because, as Supt. Ling testified, he did not want to make accusations until he was sure of what he had at the lab.

About 4 p.m., while the royal tour was in Moncton, Gerry White, a technical producer in the Moncton newsroom of ATV, answered a call from what he described later as a well-spoken woman who said she wanted to talk to a reporter.

She wanted to inform a reporter about a drug seizure that the RCMP had made from Mr. Hatfield the day before in Fredericton. Mr. White asked whether the woman realized the seriousness of what she was saying, and she replied that she certainly did. She wanted a story done, she said, because she was afraid the RCMP would cover it up. She said the story could be checked with Supt. Vermette.

Mr. White immediately informed his boss, Pat Ryan, ATV's New Brunswick news director, about the call. Mr. Ryan later reached Supt. Vermette by telephone at his home in Fredericton. According to Mr. Ryan, Supt. Vermette said, "There's something to it, but I'm not sure how much is supposed to be public." The next afternoon, Sept. 27, Mr. Ryan talked to Supt. Ling for half an hour.

Supt. Ling testified that he did not confirm anything about the investigation. Mr. Ryan did not broadcast the story, but his call raised the anxiety level several notches at RCMP headquarters. Supt. Ling was worried that the story was out before he had even dis-

cussed the issue with Mr. Hatfield.

Later that same evening, after the news, Mr. White took another call in the ATV Moncton newsroom. It was the same woman to whom he had spoken the previous afternoon. She implored ATV to keep digging. Mr. White asked her not to talk to any other news organization.

The next morning, Sept. 28, Supt. Ling and Inspector Richard Waller, the man in charge of the Hatfield investigation, met the Premier at his home on Elmcroft Place. Supt. Ling apologized for his "unpleasant duty," read the standard police caution and then informed Mr. Hatfield of the seizure and that he was a suspect in a police investigation.

The Premier nodded that he understood. Then he told the officers that the marijuana was not his and that he needed legal advice. Then, as the officers prepared to leave, the Premier talked about recent trips he had taken, including a quick overnighter to Toronto on the Government plane where somebody might have planted the plastic bag.

The officers did not interview Mr. Hatfield again, but the denial offered by the Premier at this time became a contentious legal point at the trial — much turns in law on whether this was a spontaneous denial of possession the instant a suspect was confronted with the seizure, or whether it was a denial after having three days to think about it.

Crown prosecutor David Hughes argued that the Premier would be aware that the plastic bag was missing since Sept. 25 and had been warned by Supt. Ling's phone call the day before of the impending "urgent matter" and so would have had time to concoct an explanation.

But Judge Harrigan ruled that, since this was the first time the Premier had been confronted with the accusation, his reply was spontaneous and exculpatory. The RCMP had decided to be diplomatic at the airport and not confront the Premier immediately, and it became a major hole in the Crown's case.

There is little doubt the RCMP was handling the whole matter with kid gloves. For a start, the meeting at the Premier's home was extraordinary. Then Supt. Ling also informed Mr. Hatfield about his phone call the evening before from Mr. Ryan. "We may not be able to keep a lid on this one," he told the Premier.

Supt. Ling thought the warning was a courtesy, but it formed the basis for Mr. Hatfield's later charges that the RCMP leaked the story to "get" him.

THE LEAK about which Mr. Hatfield complained never surfaced publicly, but rumors abounded. About a week after he was first approached by the RCMP, Mr. Hatfield called the Solicitor-General seeking an urgent meeting to express his complaints about the pace and style of the RCMP investigation.

It was a call that should have rung alarm bells throughout the justice system, since Mr. MacKay had already been briefed by the Mounties that Mr. Hatfield was being investigated and the Solicitor-General had had an extraordinary meeting on Oct. 3 with Mr. Ryan, who still had not reported the story.

Nevertheless, Mr. MacKay went to the Chateau Laurier on Thanksgiving Sunday (Oct. 7) to hear out the Premier.

Despite this special meeting with the Mounties' boss and the other special arrangements adopted by the RCMP because of his position, Mr. Hatfield was later to complain that he had been "treated less fairly by the justice system than other Canadians." In addition to accusing the RCMP of leaking the story of the marijuana seizure and spreading other "false rumors," Mr. Hatfield complained of "unprecedented investigatory procedures" and accused a lawyer in the Justice Department of also leaking information.

Mr. Hatfield complained that the RCMP took a month between seizing the marijuana and laying the charge, and the fact that the investigators took special precautions with the drugs and the use of special laser technology in Ottawa in an unsuccessful attempt to improve on a partial fingerprint.

PART OF THE delay about which Mr. Hatfield complained is easily explained. There are several indications that the Mounties were reluctant to charge Mr. Hatfield, regardless of whatever passed between him and the Solicitor-General on Oct. 7. Both RCMP Commissioner Robert Simmonds and Supt. Ling stress they hesitated because they were worried about the quality of the evidence and not about the prominence of the suspect or publicity about the case.

Mr. Simmonds already was on record as opposed to marijuana possession charges in general. The Mounties knew they had only a partial fingerprint and, at that time, they did not know whose it was.

Moreover, they had a real problem of continuity with the plastic bag. They were worried about the potential publicity and were surprised that no story had broken. The explanation could be an agreement between Mr. Ryan of ATV and Mr. MacKay on some form of 30-day moratorium on the story. (Mr. Ryan admits to the 30-day period but is vague on why. ATV never ran a story until it had broken elsewhere and Mr. Ryan never confronted Mr. Hatfield, with whom he has been friendly in the past, with his information.)

This apparent somnolence began to change on Oct. 17 and 18 when Tom Corowther, publisher of the Fredericton Daily Gleaner, picked up rumors of the police investigation when he was in Saint John. One of his reporters also heard about the investigation and another confirmed it.

The Gleaner published a limited story on Oct. 20, saying that "contraband" had been seized from a "high government official" in connection with the royal plane.

Was this another leak? Mr. Hatfield claims it was and the RCMP is now conducting an internal investigation to find out. But New Brunswick reporters say that, by then, three weeks after the original seizure, the rumors were widespread and the only journalistic challenge was to confirm that the investigation was under way.

On Oct. 22, Mr. Hatfield confirmed that he was the "high official" in the Gleaner story but denied that the marijuana was his.

At this point, the Hatfield case moved to Ottawa. Insp. Waller, who already was in Ottawa, was joined by Supt. Ling. The decision was taken on Oct. 25 and the charge was laid in Fredericton two days later.

Mr. Hatfield wanted the charge to be laid and heard immediately, but the federal Government had not even appointed a special prosecutor. (One problem was that Mr. Crosbie had frozen the old list of special prosecutors appointed by the Liberals but had not got around to replacing them.)

Mr. Hatfield's next complaint centres on the legal tactic, dictated by the Justice Department in Ottawa, used to force him to supply his fingerprints. (The RCMP wanted them for comparison with the partial print found on the plastic bag.)

Although simple possession of marijuana is almost invariably treated as a summary conviction and dispensed with a small fine, the Crown kept open its option to proceed by indictment, which requires someone charged to be fingerprinted.

About the same time, the Mounties began one of the most controversial aspects of their investigation, described by Mr. Hatfield as an attempt to dig up "unrelated slanders."

They began searching for four students who had visited Mr. Hatfield's home in January, 1981, and later boasted about taking drugs and travelling to Montreal with the Premier. The story had widely circulated at the time and, as it turns out, another RCMP officer, Tim Quigly, had begun an investigation.

The RCMP eventually found two of the students, obtained statements from them and paid expenses for one of them to attend the trial. But the statements were never introduced at the trial.

Even though the trial is over and the federal Government has announced that it will not appeal, the prosecution side is still sensitive about this aspect. Mr. Hughes, the special prosecutor, will not even admit that he had the students' statements ready and suggested that there was "a special reason why I can't." Supt. Ling cut off all discussion when asked about this point.

THE CONDUCT of the trial itself already has spawned much controversy because Judge Harrigan, promoted over several older judges by Mr. Hatfield several years ago to become Chief Judge of the Provincial Court, directed as much attention to the alleged news leak as to the evidence submitted to him.

He also made no bones in his judgment about what he thought of the case against Mr. Hatfield. "Never has so much been done by so many for such a little situation."

Clearly enjoying the most high-profile case he is likely to try, Judge Harrigan gave at least two crucial legal breaks to Mr. Hatfield dealing with the statement he gave to the RCMP at his home and on the weight of the fingerprint evidence.

Don Gillis, Mr. Hatfield's lawyer, was so opposed to any fingerprint evidence that he tried to block the RCMP's fingerprint technician from being sworn in as an expert witness, a superfluous concern as it turned out. When Corporal Gordon Smith did get to tell the court that there were eight points of similarity between Mr. Hatfield's thumb print and the partial print found on the plastic bag, Judge Harrigan was not interested unless the officer could answer in black and white, and Cpl. Smith was qualifying everything.

In Judge Harrigan's opinion, Cpl. Smith "was mouthing words that were slowly destroying the Crown's case and he knew it. This man could not, beyond a reasonable doubt, say that the comparison of these two prints link the accused with the known prints."

Case dismissed — but not the end of the story.

Southam News and The Globe and Mail printed the substance of the affidavits that were not introduced in court. The accusation was that Mr. Hatfield had invited students to his home four years ago and supplied them with drugs. His response last week was unequivocal: "I completely and unequivocally deny that charge."

Mr. Hatfield went on to develop his conspiracy theory. "It is my belief that whoever did this terrible thing (the planting of marijuana in his suitcase) were the same persons who orchestrated these new false allegations."

For this to be true, there would have to be some collusion between Southam News, The Globe, the RCMP, the special prosecution and the person or persons who allegedly planted the marijuana in Mr. Hatfield's suitcase in September.

The trial did not prove that someone planted the marijuana in the Premier's bag, as Mr. Hatfield suggests. The judge only ruled that the Crown had failed to link Mr. Hatfield to the bag containing marijuana "beyond reasonable doubt."

Even if the drugs were planted in his bag at the airport in September, as Mr. Hatfield contends, there is no evidence to link that with the latter accusations.

Did the RCMP, either at the urging of the Justice Department, or on its own initiative, rekindle the 1981 investigation into the student pot party because it was determined to "get" Mr. Hatfield and it knew that its evidence on the airport marijuana charge was weak, especially after one of its key witnesses, Arthur Parks, Mr. Hatfield's deputy minister, died of a heart attack before the trial?

There has been only one explanation for the RCMP's zeal in recycling the 1981 incident. It comes from a Justice Department lawyer, Roger LeClaire. The students' stories were to be used as rebuttal evidence if Mr. Hatfield took the stand or if his lawyer called character witnesses. The Premier did not take the stand. That meant no rebuttal witnesses and no pot-party evidence.

But the story still made it into print, more evidence of a conspiracy, according to Mr. Hatfield and to his frequent champion, Dalton Camp. Even before the allegations of the marijuana and cocaine became public, Mr. Camp, a close family friend, adviser and frequent speechwriter for Mr. Hatfield, was on radio and writing columns questioning the role of the RCMP and calling for an investigation. Most recently, Mr. Camp said the Justice Department deliberately leaked the information about the student pot party to Southam News.

Nicholas Hills, general manager of Southam, has confirmed that, in response to its probing in Ottawa, the news service received one or more "brown envelopes" after it started working on the story.

MR. CAMP'S VERSION does not jibe with the story of the reporter who first learned about a potential student witness at the trial. The Globe's Atlantic correspondent, Michael Harris, says the story's genesis was more luck than good management. Mr. Harris overheard Peter Daigle, now a Halifax chef, ask Insp. Waller outside the Fredericton courtroom about payment of witness fees. Realizing that the young man had not testified at the trial, Mr. Harris decided to follow Mr. Daigle's story. Together with Southam's Julian Beltrame, they tracked down at least one other student who had been at Mr. Hatfield's home and another who had seen the group at the Fredericton airport on its way to Montreal.

The story had only a tenuous connection with the marijuana charge against Mr. Hatfield that had just been dismissed. Could it or should it be printed?

There was much legal consultation in the editorial offices of both Southam and The Globe. In the end, Southam decided to publish the students' allegations, influenced by the confirmation of the affidavits they were able to obtain in Ottawa.

Mr. Hills said the students' stories revealed such questionable conduct by a public figure that Southam was justified in printing the story in the public interest, whatever the connection, or lack of it, with the marijuana trial.

The Globe made a similar value judgment. After further independent verification of the contents of the affidavits, The Globe printed a similar story two days later.

After a week of silence, Mr. Hatfield denied that he had provided marijuana or cocaine to the students. He admitted that the students were at his home "with others" and attributed their presence to his "extremely gregarious" nature. He made no mention of the trip the students said they took on the Government plane to Montreal.

The students stick to their stories. What remains is a contest of credibility between an embattled premier fighting for his political life and students tracked down by the RCMP four years after the event and, under protest, required to provide somewhat self-incriminating stories.

Premier's Statement

(The following statement was issued shortly after 10 a.m. today by Premier Richard Hatfield).

Because my stubborn sense of justice has been so offended and with the knowledge of my own innocence I have now decided to make a statement.

On January 29, in a public courtroom in Fredericton, I successfully defended myself against a criminal charge of possession of marijuana.

Now I find that I must defend myself against serious allegations and rumours brought against me, not in a courtroom where they can be questioned and impartially adjudicated, but in the national media. The sting of these new accusations against me is that it is said I invited students into my home four years ago and supplied them with drugs. I completely and unequivocally deny that charge.

When told the narcotic was found in an outer pocket of my suitcase I said it was not mine. I stated publicly I did not put it there. Nevertheless, I was charged with possession. This was done even though: The au-

(See PREMIER'S STATEMENT, Page 2)

Premier Richard Hatfield

Premier's Statement

(Continued from Page 1)

thorities knew at least two people were aware a narcotic had been found in my suitcase before I was told. How did they know? All those who were aware of the discovery swore under oath that no one outside the R.C.M.P. was told. How did they know? Who told them? The authorities knew my suitcase had been tempered with long after it left my possession. The airport manager testified he placed it in his assistant's office. It was left unattended in an unlocked opened room to which many people had access. When the assistant manager returned to his office the zipper to one of the outside pockets was open. He closed it. The narcotic was subsequently discovered in one of these outside pockets. Why was the pocket opened? Who opened the pocket?

I was found innocent because the marijuana was not mine and I did not put it in the suitcase. The truth is that some other person or persons deliberately planted the narcotic in my suitcase in order to disgrace me and to force my removal from office. It is my belief that whoever did this terrible thing were the same persons who orchestrated these new false accusations.

How then can I defend myself against these accusations? I have always believed in the Canadian system of justice as inherited from Britain. Under that system, citizens are innocent until proven guilty and when a man is acquitted in open court he is not then persecuted for matters that would never be brought against him in the courtroom. I must rely on the decency and common sense of the people of New Brunswick.

I believe that throughout this ordeal, and save for the trial in the Fredericton courtroom, I have been treated less fairly by the justice system than other Canadians. As the judge at my trial said, "Never has so much been done by so many for such a little." The police waited a month before charging me. In violation of my rights under the Charter the Crown delayed giving me notice of the specific charge against me in a vian attempt to compel me to incriminate myself. At the trial admissions were made of the use of unprecedented investigatory procedures in a case of this kind—lasers were used, couriers for marijuana analysis, and expert police witnesses giving unprecedented evidence. The Crown called 17 witnesses. In gathering evidence police travelled to Toronto and elsewhere to dig up unrelated slanders. When, despite all this exceptional and indeed extraordinary effort, I was acquitted...within a matter of days a lawyer from the Federal Department of Justice located in Ottawa confirmed to an Opposition Member of Parliament that statements were made and the identification of the men who performed on television last week. As far as I can tell the lawyer's conduct was certainly unprecedented and unprofessional and improper. The Opposition Member of Parliament has said he was told the name of one of the men by Southam News. How did they know?

It is my information that at the same time certain representatives of the media throughout the country received unmarked brown envelopes containing the two statements. Who sent these envelopes? Why were they sent?

The Oppositon Member of Parliament, using his parliamentary privilege, made public before the nation accusations that could not be brought against me fairly in a courtroom. Following this these two persons were brought forward to tell their own unlikely stories in an attempt to discredit me in my trusted office.

The statements made by these men that I used a narcotic in their presence and that I supplied a narcotic to them are completely false. It is true that they were in my home together with others some four years ago. However they were strangers to me. Those who know me will confirm I am extremely gregarious. I meet and talk to people on the streets, in the markets and the shops, in the restaurants and in the bars. I invite them to my house. I go to their house. The door to my house is usually unlocked and frequently open. That is my way. I admit I am unconventional. It is the same when I travel, especially in New Brunswick because these people are my constituents and members of the public of the province. I cannot and do not know the charcter or habits or truthfulness of every one of them.

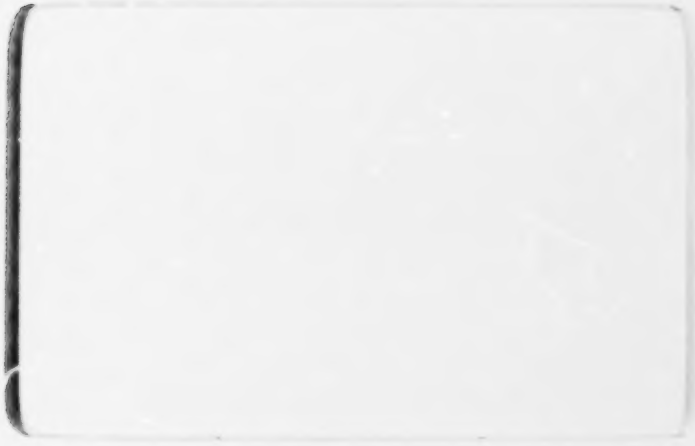
When these false statements were published I remained silent because once again I was obliged to obtain legal advice. I am advised it is open to me to commence action for defamation. While this is not an option I have rejected, and it is one I would not hesitate to pursue if ultimately required, there are serious competing considerations.

Some four months elapsed between the planting of the marijuana in an outer pocket of my suitcase and my acquittal. During this time I experienced immense strain and personal distress. Must I now defend myself forever against other slanders and stale dated tales? I received the office I hold as a result of a free election and a democratic process. That is the only process which will remove me from this office. It would be a breach of the faith all Canadians have in the integrity of that process if I were to allow myself to be removed in any other way.

I want to close by appealing to that sense of decency and fair play which best characterizes New Brunswick. The presumption of innocence is a fundamental right of every Canadian including me. I have been found innocent in a fair trial of the only charge brought against me. To those who sought to profit by their wickedness, they should know they have failed. To those who believed in me and supported me and relied on me, I have not and I will not let you down.

Royal Canadian Mounted Police

Gendarmerie royale du Canada



Canada

L'ETUDE INTERNE DE
L'ENQUETE MENEE PAR LA
GENDARMERIE ROYALE DU CANADA
DANS L'AFFAIRE HATFIELD

Royal Canadian Mounted Police / Gendarmerie royale du Canada

The Commissioner / Le Commissaire

Le 21 mai 1985

L'honorable Elmer MacKay, c.r., c.p., député
Solliciteur général du Canada
340 Laurier ouest, 13ième étage
Ottawa, Ontario
K1A 0P8

Cher monsieur MacKay:

Je vous parvenir ci-joint mon rapport sur "l'étude interne de l'enquête menée par la Gendarmerie royale du Canada dans l'affaire Hatfield".

Je vous prie, cher monsieur MacKay, l'expression de mes sentiments distingués.

Le Commissaire,

R.H. Simmonds

pièce jointe

Canada

1. Le présent rapport a donné lieu à bien des spéculations. Il importe donc d'en préciser le but et les limites. Le rapport contient, en résumé, les résultats d'un examen de la conduite des membres de la Gendarmerie royale du Canada qui ont été mêlés d'une façon ou d'une autre à ce qu'on a appelé "L'Affaire Hatfield".

2. Le rapport n'est pas un examen du rôle joué par d'autres personnes -- p. ex. les membres du ministère de la Justice, l'avocat de la poursuite, les juges, les journalistes, les fonctionnaires et les citoyens en général. Cependant, en étudiant la conduite des membres de la Gendarmerie, on mentionne souvent d'autres personnes, mais on ne fait allusion à leurs actions que dans la mesure où c'est nécessaire pour expliquer qu'un membre de la Gendarmerie a agi ou réagi de telle ou telle façon, ou pour établir qu'un membre n'est pas responsable de certaines activités en démontrant qu'elles sont le fait d'autres individus. En somme, le but de cette revue des faits, et conséquemment du rapport, est de déterminer si des membres de la Gendarmerie ont enfreint la Loi sur la G.R.C., le Règlement ou les Ordres permanents du Commissaire, ou toute autre loi, au cours de l'enquête qui nous intéresse.

3. En préparant ce rapport, j'ai passé en revue le dossier de l'affaire, la transcription des séances du tribunal et la documentation volumineuse que m'a remise le surintendant principal BELANGER, qui, avec l'inspecteur PRUNEAU, ont fait enquête sur tous les aspects de cette question. Cette documentation comprend un certain nombre de déclarations et les résultats de l'interrogation d'une foule de gens, ainsi que des opinions et des conjectures. Une bonne partie du matériel consiste en un compte rendu d'une investigation longue et pénible qui, à la fin, s'est avérée négative, faisant disparaître les présomptions voulant qu'un membre de la Gendarmerie pourrait avoir fait quelque chose d'incorrect. Cette documentation interne ne fait pas partie du présent rapport, mais elle a servi de matière première à laquelle j'ai puisé pour arriver à mes conclusions.

4. On a dit entre autres, au sujet de cette affaire, qu'elle ne semblait pas avoir suivi le cours habituel des autres cas de possession d'une petite quantité de marihuana. C'est vrai. Cependant, à part le fait que la marihuana est une substance qu'on trouve souvent en plus ou moins grande quantité chez plusieurs individus, on peut dire qu'il n'y a rien qui soit très normal dans toute cette affaire. À ma connaissance, c'est la première fois au Canada qu'on découvre de la drogue dans les effets d'une personne élue à un aussi haut poste, et certainement la première fois qu'on trouve cette substance illicite au cours de la vérification sécuritaire des bagages qui doivent être placés à bord de l'avion royal. Ce sont précisément ces anomalies qui font que l'affaire constitue un cas à part, qui a demandé beaucoup de prudence -- prudence qui, plus tard, et pour des motifs malsains, a été caractérisée comme étant un traitement spécial.

5. Normalement, lorsque des stupéfiants illicites sont découverts dans les effets personnels d'un individu, ces effets sont remis sous la surveillance de la police pour qu'elle puisse certifier que personne n'a pu altérer la substance incriminante. Une fois que les effets sont acceptés par l'individu en

question, la fouille a lieu, la drogue est saisie, et la personne trouvée en possession de la substance est mise en accusation. Si elle témoigne devant le tribunal que le stupéfiant ne lui appartient pas, ou qu'il s'y trouvait à son insu, il revient au tribunal de considérer l'élément de preuve et d'en arriver à une conclusion fondée sur toutes les circonstances présentées au cours du procès. Cette façon de procéder n'a pas été suivie dans le cas présent pour un certain nombre de raisons. Il importe donc de décrire dans les grandes lignes ce qui s'est produit.

6. Le 25 septembre 1984, à 11 h, l'avion royal se posait à Fredericton, où Sa Majesté la reine devait participer à un certain nombre de cérémonies publiques. L'avion devait repartir à 17 h, l'après-midi même, en destination de Moncton. Un dîner offert par le Gouvernement du Nouveau-Brunswick sous le patronage du Premier ministre HATFIELD devait avoir lieu à 20 h 30, à l'Hôtel Beauséjour de Moncton. Il avait été convenu que Monsieur HATFIELD devait faire le trajet de Fredericton à Moncton à bord de l'avion royal.

7. Vers le 10 h 30, le Premier ministre HATFIELD fut conduit à l'aéroport par M. Arthur PARKS, qui était allé le chercher chez lui un peu plus tôt. Après avoir fait monter le Premier ministre dans la voiture, M. PARKS y plaça les bagages et, à l'aérogare, prit les mesures nécessaires pour qu'ils soient mis à bord de l'avion royal après l'arrivée de la Reine et de sa suite. Le Premier ministre s'était rendu à l'aéroport pour y recevoir Sa Majesté. Comme on l'a dit, il devait se rendre à Moncton en même temps que la Reine, une fois la visite à Fredericton terminée.

8. Comme d'habitude en pareille circonstance, la sécurité s'était resserrée à l'aéroport, ce 25 septembre. Après l'arrivée de la Reine et de sa suite et leur départ de l'aéroport, les membres de la sécurité étaient restés sur place pour garder l'avion et exercer une surveillance générale, surtout du point de vue sécuritaire, sur toutes les activités qui allaient s'y passer durant la journée. La valise du Premier ministre avait été laissée dans un endroit qui, de façon générale, était sous la surveillance constante du peloton de sécurité depuis son arrivée, le matin, jusqu'au moment de la fouille, vers 14 h 15. La valise n'était pas toujours sous la surveillance immédiate d'un membre, mais elle n'était pas, non plus, dans un secteur où le public avait accès; si une personne inconnue s'était aventurée dans ce secteur, elle aurait certainement dû justifier sa présence et s'identifier. Il est donc presque inconcevable que quelqu'un ait pu avoir accès à la valise entre le moment de son arrivée à l'aéroport et l'heure de la fouille officielle.

9. On s'est demandé pourquoi la valise avait été fouillée quand on savait qu'elle appartenait au Premier ministre. À cela, je puis seulement répondre que c'est la pratique normale, en pareille circonstance, de vérifier tous les objets qui sont mis à bord de l'avion royal. Dans le cas présent, le chef du peloton de sécurité communiqua par téléphone avec un membre de la Sous-section

de l'enlèvement des explosifs pour qu'il passe la valise à la radioscopie. Cependant, en apprenant qu'il n'y avait qu'une pièce de bagage à vérifier, le technicien des explosifs suggéra qu'un des gardiens de la sécurité fasse lui-même une fouille manuelle de la valise, plutôt que de faire venir les membres de la Sous-section à l'aréroport. Il en fut donc ainsi convenu, et c'est au cours de cette fouille, vers 14 h 15, que la marihuana fut découverte. Je cite la déclaration du chef du peloton de sécurité :

> "Le caporal Hoffman ouvrit un petit compartiment et en sortit une enveloppe brune; il me la montra et me demanda ce que je pensais de ça. Je l'avisai qu'il devait vérifier tout, même ce qui était cacheté et fermé à clef. Il ouvrit l'enveloppe sous mes yeux et en sortit un sachet de plastique contenant ce qui ressemblait à de la marihuana." (Trad.)

10. Ayant trouvé la marihuana dans ce qu'il savait être la valise du Premier ministre, le chef du peloton de sécurité appela au Quartier général de la Division "J" pour faire part de sa découverte et pour demander des instructions. C'était là la première dérogation à la pratique normale; à l'ordinaire, le membre aurait tout simplement procédé de la façon indiquée au paragraphe 5. Dans le cas présent, cependant, il savait que le Premier ministre devait recevoir la Reine à un dîner offert par la Province, à Moncton, le soir même, et que la valise contenait la tenue de gala de M. HATFIELD. Il eut été impossible de remettre la valise à son propriétaire sous la surveillance de la police sans perturber la visite royale, et sans causer beaucoup d'embarras à Sa Majesté, au Canada, et à la Province du Nouveau-Brunswick.

11. À cause du branle-bas de la visite royale, presque tous les membres du personnel du Quartier général, y compris les officiers, avaient été affectés à des tâches spéciales et n'étaient pas à leurs bureaux. Voilà pourquoi, lorsqu'il appela au Q.G. divisionnaire pour savoir quoi faire, le chef du peloton de sécurité ne put rejoindre aucun officier supérieur responsable des opérations. L'appel fut pris par un autre sous-officier qui discuta de l'affaire avec un officier de l'administration divisionnaire. Suite à conversation avec l'officier, il fut suggéré au chef du peloton que la meilleure chose à faire dans les circonstances serait peut-être de remettre le sachet dans la valise et de fermer les yeux. En entendant cette proposition, le chef du peloton de sécurité protesta vigoureusement et hautement que cette façon d'agir était inappropriée et inacceptable. On lui conseilla d'attendre d'autres directives.

12. Au moment de la déccuverte de la marihuana, il y avait dans la pièce neuf membres de la Gendarmerie qui furent automatiquement mis au courant de l'incident. Dans les quelques minutes qui suivirent, trois autres membres entrèrent dans la pièce et, à leur tour, constatèrent ce qui se passait. Les onze membres entendirent également les commentaires plutôt vigoureux que le chef du peloton de sécurité échangea au téléphone avec son interlocuteur du Quartier général. La situation était pour le moins étonnante et bizarre :

l'avion royal; le Premier ministre; la marihuana; et un échange de vues retentissant entre deux sous-officiers supérieurs -- tout ayant été vu et entendu par onze membres subalternes.

13. Enfin, le surintendant principal LING, commandant de la Division, put être rejoint; il rentra au Q.G. le plus tôt possible, soit vers 15 h 30. Il fut mis au courant de la situation et donna ordre de saisir la marihuana, mais de placer quand même la valise à bord de l'avion pour que la visite royale se poursuive sans interruption et sans embarras. J'appuie pleinement la décision du surintendant principal LING. L'ordre fut bien reçu du chef du peloton de sécurité, et il fit savoir aux autres membres présents que c'était là la bonne orientation. Suit une partie de sa déclaration :

> "Tel que mentionné, les membres présents étaient au courant de l'affaire, et en avaient été témoins jusqu'à ce point. Avant de les renvoyer, je les avisai que ce qui avait été vu et entendu dans la pièce devait demeurer là. Ils ne devaient pas en parler, parce qu'il s'agissait d'une affaire particulièrement délicate, que le Commandant était intervenu et qu'il s'occuperait de diriger l'enquête, et enfin que le Commandant comptait procéder de la même façon que s'il se fut agi de tout autre citoyen, etc."

14. Malheureusement, l'avertissement du sous-officier vint trop tard ou, à tout le moins, il ne fut pas respecté. Au moment où l'avertissement fut lancé aux membres, il est clair que certains d'entre eux avaient déjà parlé de l'incident à d'autres collègues qui étaient en devoir à l'aéroport, mais qui ne se trouvaient pas dans la pièce lors de la saisie. De plus, après le départ de la Reine et de sa suite, à 17 h, sept des douze membres firent partie d'un groupe de 30 qui se rendit par autobus jusqu'à Moncton. Ils sont descendus à l'hôtel Park House Inn pour la nuit, et ont été affectés à différentes tâches relatives à la visite royale, le lendemain, dans la région de Moncton. Il semble bien que l'incident de l'aéroport fut discuté en cours de route par les membres. Quatre autres membres du groupe des douze de l'aéroport se rendirent à Moncton dans une voiture de la police. Seul le chef du peloton de sécurité demeura à Fredericton pour s'occuper de mettre l'enquête sur pied. À Moncton, les onze membres parlèrent à d'autres confrères des différentes régions de la Division assignés à des tâches connexes à la visite de la Reine. Malheureusement, cette suite d'événements eut pour résultat que plusieurs membres, de différentes régions de la Province, furent rapidement au courant, au moins vaguement, de ce qui avait transpiré, et on se demandait avec appréhension ce qui allait s'ensuivre. Toutefois, autant qu'on peut en juger, cette connaissance générale des faits n'avait pas, jusqu'alors, dépassé le groupe des membres de la Gendarmerie.

15. À 17 h 30, le 25 septembre, le surintendant principal LING avertit le sous-commissaire JENSEN de la Direction générale de la G.R.C. de ce qui avait transpiré, et lui demanda son opinion sur l'autorisation de fouiller les

bagages du Premier ministre, et sur l'état de la pièce à conviction. Après cet échange de vues, les deux interlocuteurs décidèrent de ne pas aborder le Premier ministre HATFIELD ce soir-là, et même que cette démarche ne devrait pas avoir lieu avant que la substance saisie ne soit analysée.

16. À 13 h 25, le 26 septembre, la Reine et sa suite quittèrent Moncton par avion pour se rendre à Ottawa. À 14 h 30, il y avait à l'Hôtel Beauséjour une réunion sociale, à laquelle participaient un groupe important de membres du Comité d'organisation de la visite de la Reine, des représentants des Comités municipaux de certaines villes, telles Dieppe, Moncton et Riverview, ainsi qu'un certain nombre de membres de la G.R.C. Le Premier ministre s'y présenta et remercia toutes les personnes présentes de leur excellent travail, qui avait permis de faire de la visite royale un véritable succès. À cette réunion, il y eut, au moins parmi les membres de la G.R.C., des discussions sur les événements insolites de la veille. On ne sait pas si les civils présents, avec qui les membres de la Gendarmerie avaient travaillé étroitement avant et durant la visite, se mêlèrent à ces discussions ou s'ils purent entendre les conversations des membres sur le sujet, mais, selon moi, c'est très probable.

17. Le 26 septembre, vers 16 h, M. William Gerald WHITE du poste ATV de Moncton reçut un appel, apparemment local, d'une femme non identifiée qui lui parla de l'affaire. Je cite M. WHITE en entier :

> "Le 26 septembre, vers 4 heures de l'après-midi, j'étais dans la salle de rédaction lorsque le téléphone a sonné. Même si je ne suis pas affecté à la salle de rédaction à plein temps, j'étais chargé, à cette heure de la journée, de m'occuper des rapports déjà rédigés qui doivent passer aux nouvelles; je devais en faire la liste, c'est-à-dire taper à la machine les titres, le nom des reporters et le nom des personnes qui y figurent.
>
> Je me sers très souvent du téléphone durant cette période, pour appeler divers bureaux pour des renseignements, ou pour répondre aux autres bureaux qui appellent.
>
> C'est durant cette période, alors que je répondais au téléphone, qu'une interlocutrice anonyme m'a demandé si j'étais reporter. Je lui ai répondu que non. Elle m'a demandé alors si j'étais journaliste. Je lui ai répondu que je faisais partie de la rédaction. Elle m'a alors déclaré qu'elle avait certains renseignements, que ça concernait la visite royale, et qu'elle offrait l'information au service des nouvelles de ATV, parce qu'elle croyait qu'on en tirerait parti, alors que les autres média ne s'en occuperaient probablement pas. Je lui ai demandé quelle information elle possédait et lui ai promis de m'en occuper. Je l'ai remerciée également pour la confiance qu'elle nous accordait et pour ne pas avoir appelé les autres média. C'est alors qu'elle m'a demandé si

je savais que la G.R.C. avait pris une quantité de marihuana dans les bagages du Premier ministre. Je lui ai répondu "Non, je n'ai pas entendu ça!" Elle a poursuivi en disant que c'était vrai. Je lui ai demandé comment elle avait appris la chose. Je dois avouer que j'étais un peu étonné. Elle m'a dit qu'elle était au courant, que c'était la vérité, et que je pouvais confirmer la nouvelle en appelant le surintendant VERMETTE à Fredericton. Je lui ai alors demandé pourquoi, si la chose était vraie, elle m'appelait pour me faire connaître l'incident -- je supposais que si c'était vrai la G.R.C. allait faire enquête sur l'incident, et, en temps opportun, rendre les conclusions publiques. Elle m'a répondu que la G.R.C. essayait de camoufler l'incident, à cause, prétendait-elle, d'un conflit entre un membre et son supérieur.

Je lui ai assuré que je demanderais à quelqu'un de s'informer de cette affaire. Je lui ai demandé son nom et son numéro de téléphone. Elle a refusé de me les divulguer, puis a souligné que j'avais assez de renseignements pour pousser cette histoire plus loin.

Sachant que Pat Ryan, le directeur du service des nouvelles pour le Nouveau-Brunswick, était à Moncton pour la couverture de la Visite royale, je lui ai fait part de ces renseignements, lui indiquant que je venais de recevoir un appel intéressant. Je lui ai alors transmis ce que m'avait dit la dame. Il m'a demandé si je croyais cette histoire, ou si, à mon avis, il pouvait s'agir d'une mauvaise plaisanterie. J'ai dit à Pat Ryan que cette personne parlait très bien et qu'elle me paraissait intelligente et très préoccupée par cette affaire. Pat Ryan m'a demandé si j'avais obtenu son nom et je lui ai indiqué qu'elle avait refusé de me le donner. Pat Ryan m'a alors dit qu'il s'en occuperait. Je lui ai dit de ne pas oublier, ce qui pouvait se produire en raison d'un horaire très chargé. Mais il m'a affirmé qu'il n'oublierait pas.

Je n'ai plus pensé à cet appel téléphonique, puisque ça ne me regardait plus, étant donné que je ne suis pas journaliste.

Le soir suivant, peu après 21 h 30, j'étais à mettre au point un spectacle western, le "Capital City Jamboree", avec Kevin Doyle, un employé d'ATV, lorsque le téléphone a sonné dans la suite ENG. Il a sonné quatre ou cinq fois, puis je me suis levé pour y répondre. Kevin m'a dit de laisser tomber, puisque personne n'était de service ce soir-là dans la salle des dépêches, mais je lui ai répondu que lorsque le téléphone sonnait dans la salle des dépêches et que je m'y trouvais, je me sentais obligé d'y répondre. Reconnaissant ma voix à cause de notre conversation du jour précédent, l'appelante m'a demandé pourquoi on n'avait pas parlé de la saisie de marihuana à Fredericton aux nouvelles ce soir-là. Je lui ai répondu qu'une histoire de cette importance ne pouvait passer sur les ondes en si peu de temps. Elle m'a alors demandé

si j'étais entré en communication avec la G.R.C., et je lui ai dit que Pat Ryan, le chef des nouvelles, s'en occupait. Elle m'a demandé si Pat Ryan avait de nouveau communiqué avec la G.R.C. et j'ai répondu qu'il avait contacté la Gendarmerie à Fredericton. Elle m'a ensuite demandé ce qu'ils avaient dit et je lui répondu que je l'ignorais. Elle a répété la question, comme si elle ne me croyait pas et j'ai répondu que je ne le savais pas, mais que Pat Ryan m'avait dit au téléphone qu'il croyait que quelque chose se passait. Cette réponse a semblé la satisfaire et elle m'a dit de continuer et de ne pas laisser tomber cette affaire. Je lui ai assuré qu'ATV ne la laisserait pas tomber avant que le service des nouvelles ait procédé à une enquête complète. J'ai ensuite appelé Pat Ryan à Saint-Jean ou Moncton, je n'en suis plus certain, pour lui dire que la même personne m'avait appelé pour demander pourquoi l'histoire n'était pas passée aux nouvelles. Pat Ryan m'a dit que si elle rappelait, je devrais tenter à nouveau d'obtenir son nom et son numéro de téléphone ou lui demander si elle voudrait le rencontrer dans un endroit non divulgué ou un endroit de son choix. Elle ne m'a jamais rappelé. La semaine suivante, je suis parti en vacances pour un mois et je n'ai jamais repensé à l'incident, puisque je croyais m'être acquitté de mes fonctions auprès de la salle des dépêches.

Q. - L'appelant avait-elle un accent?

R. - Non, elle n'en avait pas.

Q. - Parlait-elle anglais?

R. - Oui, elle parlait anglais; elle n'avait pas d'accent français, ni britannique, ni ontarien dans sa prononciation. Je l'ai écoutée attentivement au téléphone et elle n'employait pas d'expressions argotiques. Il s'agissait sans contredit d'une personne instruite.

Q. - Comment se fait-il que son appel n'ait pas été transmis à la réception?

R. - Le numéro de téléphone de la salle des dépêches est publié dans l'annuaire téléphonique; il n'est pas branché au standard.

Q. - Y avait-il quelqu'un d'autre dans la pièce au moment du premier appel?

R. - Non, mais les gars entrent et sortent continuellement, alors il est problable que certains soient passés à ce moment-là.

Q. - L'appelante a-t-elle indiqué pourquoi elle croyait que les autres médias ne donneraient pas suite à ces renseignements?

R. - Non, seulement ce que je vous ai dit. Elle a affirmé qu'elle nous l'avait dit en premier lieu parce qu'elle écoutait les bulletins de nouvelles en soirée au poste ATV et qu'elle savait quel genre de nouvelles nous intéressait et auxquelles on donnerait suite.

Q. - A-t-elle mentionné la quantité de marihuana trouvée?

R. - Non, elle ne l'a pas mentionnée.

Q. - A-t-elle dévoilé sa source de renseignements?

R. - Non, mais elle a dit que c'était vrai. Elle m'a déclaré qu'elle croyait que la Gendarmerie tentait de camoufler l'incident. Je lui ai demandé pourquoi et elle m'a répondu qu'il y avait des problèmes entre un membre et son supérieur. Elle tenait absolument à ce que nous entrions en communication avec la G.R.C. C'est ce qui nous a semblé si convaincant.

Q. - A-t-elle mentionné le grade de Vermette?

R. - Oui. Elle l'a appelé le surintendant Vermette.

Q. - Semblait-il s'agir d'un appel interurbain?

R. - Non. J'ai réfléchi à cette question, mais tous les appels au Nouveau-Brunswick se font en direct. Je passe bien du temps au téléphone, mais maintenant, même un appel à Vancouver est très clair; ce n'est plus comme avant. Je ne saurais vous dire s'il s'agissait d'un appel interurbain ou local. J'y ai réfléchi par la suite, parce que je savais que Pat me le demanderait. Je n'ai jamais demandé à l'appelante si elle téléphonait de Moncton ou d'ailleurs.

Q. - Aviez-vous déjà entendu sa voix auparavant?

R. - Non.

Q. - Avez-vous une petite idée de qui il pourrait s'agir?

R. - Je ne peux faire que des suppositions. Je me suis demandé qui pourrait être au courant de cet incident, peut-être l'épouse d'un membre de la G.R.C., une employée de la Gendarmerie ou encore une membre.

Q. - À votre avis, quel âge pouvait avoir l'appelante?

R. - Je ne sais pas. Je dirais qu'elle pouvait être dans la vingtaine avancée ou le début de la trentaine. Je dis cela, parce que je peux comparer cette voix à celle d'une jeune femme de 22 ou 23 ans. Ma fille ayant 23 ans, je connais le timbre de voix des filles de ce groupe d'âge par ici. Elle serait plutôt dans la vingtaine avancée ou le début de la trentaine. Il n'y avait aucun signe d'excitation ou d'anxiété dans cette voix. Elle me paraissait calme et assurée. Il y avait une certaine fermeté dans sa voix; elle semblait très sûre de ce qu'elle avançait.

Q. - Qui était présent lorsque vous avez parlé à Pat Ryan au sujet de l'appel?

R. - Je crois que Drew se trouvait dans la salle des dépêches, mais je n'en suis pas certain. Je ne voulais pas qu'un grand nombre d'employés soient au courant. Je me souviens de l'endroit où il était assis dans la salle des dépêches. Cela m'était égal que Drew soit là, mais je ne voulais pas que les cameramen le sachent. Même si Pat Ryan n'était pas là, je n'aurais pas divulgué ces renseignements à un journaliste. Je me serais adressé directement à Pat Ryan, parce qu'il est le chef des nouvelles.

Q. - Lors du deuxième appel, l'appelante a-t-elle mentionné le mot "saisie" (bust)?

R. - Non, je ne crois pas qu'elle ait utilisé cette expression. En fait, je devrais reprendre mes paroles, puisque son parler était si élégant qu'elle avait probablement plutôt parlé de "l'histoire au sujet de la marihuana" ou "de la valise".

Q. - Dans votre déclaration, vous avez indiqué qu'elle avait demandé si Pat Ryan avait reparlé à la Gendarmerie. Avez-vous alors compris qu'elle savait qu'il avait déjà parlé à la G.R.C.?

R. - Non. Lorsqu'elle a téléphoné, je lui ai assuré que je transmettrais les renseignements à Pat Ryan parce qu'il est le chef des nouvelles pour le Nouveau-Brunswick. C'est pourquoi elle savait son nom. Lors du deuxième appel, elle a tout d'abord parlé du fait qu'elle n'avait rien vu au sujet de cette histoire, aux nouvelles ce soir-là. Elle voulait savoir si nous allions donner suite à cette histoire. Je lui ai affirmé que oui. Elle voulait savoir ce qu'ils avaient dit. Elle voulait également savoir si Pat Ryan avait communiqué avec la G.R.C. et s'il avait parlé au surintendant Vermette.

18. Durant la matinée du 26 septembre, le sous-commissaire JENSEN a consulté un fonctionnaire supérieur du ministère de la Justice relativement aux mesures de perquisition autorisées dans de telles circonstances. Ce jour-là, vers la fin de l'après-midi, il m'a informé de l'affaire; j'ai alors pris les dispositions nécessaires pour rencontrer le Solliciteur général afin de l'informer, en termes généraux, de l'enquête en cours, de manière à le préparer au cas où on lui poserait des questions à ce sujet. Cela s'est passé à 17 h 45.

19. On verra qu'à la fin de l'après-midi du 26 septembre, cette affaire était déjà très répandue à tous les échelons de la Division "J", le ministère de la Justice avait été mêlé à l'affaire, le Solliciteur général du Canada avait été informé et une femme non identifiée avait communiqué avec les médias relativement à l'enquête. Le matin du 27 septembre, Patrick RYAN d'ATV a contacté le Quartier général de la Division "J", à Fredericton, au sujet de cette affaire, et même s'il n'a pu obtenir aucune confirmation, la Gendarmerie s'est rendu compte que l'affaire n'était plus seulement connue des membres et que les médias étaient au courant de l'incident. Au début, M. RYAN a déclaré que l'information provenait d'une femme membre du comité d'organisation de la visite de la Reine. Comme l'indique la déclaration de M. WHITE, l'appelante non identifiée a rappelé ATV vers les 21 h 30 le même soir, afin de savoir pourquoi on n'avait pas mentionné l'histoire sur les ondes.

20. Avant de poursuivre, j'aimerais parler de la conduite des membres jusqu'à ce moment-là, ainsi que des conclusions de notre étude interne relativement à cette conduite. Vu les circonstances dans lesquelles s'est faite la découverte du stupéfiant, un nombre assez considérable de membres ont appris sur-le-champ ce qui était survenu. La réaction plutôt brutale et dramatique de l'off. resp. du peloton de la sécurité, lorsqu'il a communiqué pour la première fois avec le Quartier général divisionnaire, n'a fait qu'accroître l'intérêt de toutes les personnes présentes. Il était presqu'inconcevable que les membres, dans de telles circonstances, ne discutent pas de l'affaire avec d'autres collègues: toutefois, c'est exactement ce qui aurait dû se produire. Si la connaissance de cet incident avait été restreinte à la Gendarmerie et à d'autres autorités publiques strictement d'après le besoin-de-savoir, au lieu d'être étendue au grand public, avant qu'une accusation soit portée, les soupçons et la méfiance à l'égard des intentions de la Gendarmerie et de l'intégrité de ses enquêtes n'auraient certes pas pris tant d'ampleur.

21. Au moment de s'engager dans la Gendarmerie, tout membre doit prêter trois serments : le serment d'allégeance, le serment d'office et le serment au secret. Le dernier serment se lit comme suit :

> "Moi, ...jure solennellement que je garderai un secret absolu sur tout renseignement qui viendrait à ma connaissance en raison de mon emploi dans la Gendarmerie royale du Canada; et que sans y être dûment autorisé(e) je ne discuterai avec les membres de la Gendarmerie ou toute autre personne ni ne révélerai aucunes matières, oralement ou par écrit, qui viendront à ma connaissance par suite de mon emploi dans la Gendarmerie royale du Canada. Ainsi Dieu me soit en aide."

22. Le serment au secret que doit prêter chaque membre qui s'engage dans la Gendarmerie a pour but de prévenir des situations telles que celle décrite ici. Bien entendu, il ne s'agit pas d'un serment facile à mettre en application, mais il sert à établir une norme de professionnalisme et d'intégrité qui assure la confiance du public en la Gendarmerie. Lorsqu'on ne respecte plus les normes, il en résulte une baisse de respect vis-à-vis l'organisation. Malheureusement, dans ce cas-ci, il s'agit d'un manquement grave. On se demande ici si l'appelante non identifiée a été mise au courant de l'incident par mégarde durant des bavardages, ou si on l'a informée à dessein, afin qu'elle communique avec les médias. S'agit-il d'une membre ou d'une employée de la Gendarmerie? Est-ce l'épouse ou l'amie d'un membre? Est-ce la confidente à laquelle un membre indiscret en aurait trop dit, sans se rendre compte qu'elle se servirait des renseignements à ses propres fins? De toute manière, les douze membres qui se trouvaient d'abord au bureau de la sécurité étaient tous des hommes, et le groupe de membres qui se sont rendus à Moncton en autobus se composait également d'hommes. S'ils avaient tous respecté leur serment, cette femme n'aurait pas appris les renseignements qui lui ont permis de poser son geste malveillant.

23. Notre étude interne v sait à éclaircir les circonstances au tout début de l'enquête. On a procédé à de nombreuses entrevues et on a recueilli bon nombre de déclarations. Au départ, les membres étaient très susceptibles face à l'étude, tout particulièrement lorsqu'on leur a demandé ce qu'ils auraient pu révéler à leurs épouses, amis ou collègues. Toutefois, lorsque des déclarations publiques ont indiqué que la Gendarmerie avait conspiré contre le Premier ministre ou le gouvernement, l'indignation fut telle parmi les membres que leur attitude a grandement changé. Ces derniers se sont rendu compte qu'ils étaient tous ternis par les commentaires de personnes en haut lieu dans la province et, afin d'effacer les soupçons, ils ont alors collaboré avec nos enquêteurs pour tenter de déterminer le déroulement exact des événements.

24. Malheureusement, et ce malgré une étude très intensive, l'appelante n'a pas été identifiée et elle ne s'est jamais présentée pour éclaircir l'affaire. Il est intéressant de noter que le 14 octobre M. Raymond FRENETTE a

reçu un appel d'une femme qui refusait de s'identifier. Elle a relaté l'histoire en termes très semblables à ceux utilisés avec M. WHITE le 26 septembre. Quoiqu'il ne s'agisse pas d'une certitude, il semble très probable que tous les appels aient été placés par la même personne qui, pour le moins qu'on puisse dire, était très persistante et déterminée à porter l'affaire à l'attention du grand public. Les membres ont admis franchement qu'il y avait trop de bavardage et ils se sont rendu compte des conséquences. Toutefois, aucun d'eux ne peut se souvenir, ou admettre en avoir parlé avec des civils, quoique plusieurs admettent avoir tenu des conversations entre eux en la présence de civils ou à leur proximité, comme durant les fonctions relatives à la Visite royale à Moncton et dans les environs, et lors de la réception mentionnée au paragraphe 16. Personne n'a admis être responsable de la fuite aux médias.

25. Vu la portée de notre étude, j'en suis venu à la conclusion que la fuite originale aux médias doit avoir résulté du bavardage et qu'il ne s'agit pas d'un geste délibéré de la part d'un membre. Bien entendu, il est impossible de prouver une telle supposition, à moins que la femme dissimulée derrière l'anonymat décide de s'identifier et de révéler sa source d'information. Ce serait le seul moyen d'effacer les soupçons à l'égard de tous les membres qui, même s'ils ont manqué de professionnalisme, ne se rendaient pas compte que leurs bavardages pouvaient se prêter à des intentions malveillantes.

26. Il est fort regrettable que les membres n'aient pas été plus discrets durant les premières heures de l'incident. Malgré une certaine incertitude immédiatement après la saisie, la situation était tout à fait sous contrôle à 15 h 30, au moment où le commandant divisionnaire a pris l'affaire en main. De là, l'enquête aurait dû se poursuivre dans une atmosphère calme et de façon professionnelle et sans que l'affaire ne soit divulguée au grand public avant qu'une accusation soit portée , à moins, bien entendu, que le Premier ministre ou son conseiller juridique ait fait des déclarations publiques à cet effet. Cependant, c'est à cause de l'indiscrétion du début que le Premier ministre s'est interrogé quant aux intentions de la Gendarmerie, ou de certains de ses membres, et c'est ce qui l'a porté à croire que ce qui était survenu par la suite avait été manigancé par les mêmes personnes. Dans la conclusion du rapport, je traiterai des mesures que nous sommes en train de prendre en ce qui touche cet aspect de l'affaire.

27. La prochaine question qu'on pourrait poser est : pourquoi a-t-on pris tant de temps à porter une accusation? Pourquoi n'a-t-on pas procédé à l'accusation sur-le-champ? C'est là une question valable, puisqu'en temps normal, c'est exactement ce qui se serait produit. Les tribunaux font preuve de beaucoup d'indulgence dans les cas de possession de petites quantités de marihuana pour usage personnel. Il en résulte souvent des amendes relativement insignifiantes ou des libérations inconditionnelles. Une personne accusée d'une telle infraction n'en subit pas tellement de conséquences en ce qui touche sa vie personnelle ou son emploi, et son respect au sein de la communauté n'en

est pas pour autant tellement amoindri, surtout du fait que ces affaires passent devant les tribunaux à peine remarquées et sans grand intérêt pour ceux qui ne sont pas impliqués directement. La situation diffère lorsque l'accusé occupe une haute charge. Dans ces cas-là, les conséquences à subir n'ont rien à voir avec la gravité de l'infraction ou la peine imposée lorsqu'il y a condamnation. Certes, c'est le risque que doit courir quiconque désire accéder à une haute charge. C'est aussi la raison pour laquelle les policiers doivent faire preuve d'une objectivité et d'un professionnalisme irréprochables dans les affaires impliquant ces personnes, puisqu'une simple mise en accusation, peu importe le résultat, peut avoir de grandes répercussions sur leur vie personnelle et tout ce qu'elles représentent. Il importe également que l'exercice de la justice ne soit pas perçu comme étant en faveur des personnes ayant beaucoup d'influence auprès du public, des personnes riches et des personnes ayant des charges politiques. C'est en tenant compte de tous ces facteurs qu'on doit évaluer les mesures prises par la Gendarmerie et le ministère de la Justice durant l'enquête et le procès qui s'ensuivront.

28. Le Commandant de la Division "J" a nommé l'inspecteur R.W. WALLER responsable de l'enquête. Le 28 septembre, le surintendant principal LING et l'inspecteur WALLER ont rencontré le Premier ministre à son domicile. Ce dernier a déclaré qu'il ignorait la présence de la marihuana dans sa valise. Au cours de l'entrevue, le commandant divisionnaire a informé le Premier ministre que les médias avaient eu vent de l'affaire. Il a ajouté qu'étant donné que l'enquête était menée en vertu de la Loi sur les stupéfiants, elle serait traitée en tant qu'enquête fédérale, ce qui est normal dans les affaires de stupéfiants, et que le procureur général de la province ne serait donc pas informé ou consulté dans cette affaire. Le Premier ministre a alors demandé s'il devait en informer le procureur général, ce à quoi le commandant divisionnaire a répondu qu'il pouvait faire ce qu'il désirait.

29. L'enquête s'est poursuivie à la Division "J"; on a reçu les déclarations, examiné les empreintes digitales, et ainsi de suite. On a demandé à l'inspecteur WALLER de venir à Ottawa le 5 octobre pour discuter de l'affaire et de la preuve obtenue. Il s'agissait encore une fois d'un écart par rapport à la pratique courante, puisque, dans des circonstances normales, on n'en réfère jamais à la Direction générale pour les cas mineurs de possession, et certainement pas au niveau du Commissaire de la Gendarmerie et du sous-procureur général. Cependant, on a procédé ainsi pour les raisons que j'ai déjà mentionnées au paragraphe 27. De toutes façons, ce jour-là, une réunion a eu lieu dans le Cabinet du sous-ministre de la Justice, à laquelle étaient présents le sous-ministre, M. R. TASSÉ, le sous-procureur général adjoint (Droit pénal), M. D. RUTHERFORD, l'inspecteur WALLER et moi-même. Après avoir pris connaissance des faits tels qu'ils ont été présentés par l'inspecteur WALLER, il m'a semblé qu'il s'agissait là d'une affaire qui devrait être renvoyée devant un juge. Cependant, il restait encore d'autres démarches à faire afin de bien étudier tous les angles et de s'assurer par le fait même d'avoir pris la bonne décision. Dans son rapport, l'inspecteur WALLER avait souligné les démarches suivantes :

a) Que M. Ernest BLAKE, gérant de l'aéroport de Fredericton, soit de nouveau interviewé et qu'on lui demande de préciser certains points de sa déclaration, particulièrement en ce qui touche la continuité de possession de la valise;

b) Qu'on obtienne les empreintes digitales du M. BLAKE aux fins d'élimination;

c) Qu'on prenne les empreintes digitales de tous les membres qui ont eu accès à la "pièce de contrôle" et à la "pièce de sécurité" où la valise était conservée, aux fins d'élimination. Le but de cette élimination serait de contrecarrer toute défense voulant que nos membres aient manipulé la pièce à conviction;

d) Que je communique avec M. Donald M. GILLIS, l'avocat de M. HATFIELD, en vue d'essayer d'obtenir :

1) la valise aux fins d'identification·

2) une déclaration du Premier ministre, afin d'éclaircir les circonstances précédant l'arrivée de la valise à l'aéroport, ainsi que tout autre commentaire qu'il voudrait faire concernant la dernière fois qu'il aurait utilisé le carnet de chèque qui se trouvait dans la valise. Au besoin, pourrait-on obtenir l'accès à ses dossiers bancaires pour ce compte;

3) les empreintes digitales de M. HATFIELD aux fins d'élimination.

30. Les quatre premières démarches ont été accomplies promptement, sans difficulté. Pour ce qui est de la demande prévue en d) 2), le Premier ministre a refusé de fournir une déclaration, comme il en avait le droit. La dernière démarche a entraîné des délais considérables et des équivoques, causés en grande partie par l'attitude de l'avocat du Premier ministre, à savoir que les empreintes digitales seraient fournies, mais à certaines conditions seulement. Les conditions divergeaient considérablement de la pratique courante et n'étaient pas acceptables. Ne pouvait résoudre la question, on a demandé à l'inspecteur WALLER de venir à Ottawa afin de poursuivre l'étude, à partir des données que nous possédions alors. Le 17 octobre, une réunion a eu lieu dans le Cabinet du sous-procureur général au cours de laquelle on a discuté de l'impasse au sujet des empreintes digitales. Ces discussions se sont poursuivies le lendemain, et on a convenu alors d'essayer encore une fois d'obtenir les empreintes digitales du Premier ministre de son plein gré et conformément aux procédures normales.

31. Le 20 octobre, la question des empreintes digitales n'était toujours pas résolue et, ce jour-là, le Fredericton Daily Gleaner publiait le premier rap-

port sur cette affaire. La journaliste, Louella BILLINGS, a affirmé au s^{dt} p^{al} BELANGER que sa source ne venait pas de la G.R.C. Cependant, au cours de l'entrevue, il est devenu évident que sa source devait être très proche de la G.R.C. et bien au courant de son rôle dans l'affaire, en raison des détails qu'elle connaissait.

32. Au cours d'une réunion tenue au ministère de la Justice le 24 octobre, à laquelle assitaient M. TASSÉ, M. RUTHERFORD, le sous-commissaire JENSEN, le surintendant principal LING, l'inspecteur WALLER et moi-même, nous avons examiné à fond les éléments de preuve et conclu que l'affaire devrait être envoyée devant les tribunaux. Si nous n'avions pas été tous d'accord, j'aurais quand même ordonné qu'une accusation soit portée, car, du point de vue de la police, dans les mêmes circonstances, c'est ainsi que tout autre Canadien aurait été traité. Le procureur général pourrait évidemment refuser de poursuivre l'affaire s'il estimait qu'elle ne se prêtait pas à la poursuite ou s'il n'était pas dans l'intérêt public de le faire. Cependant, comme tous se sont dit d'accord, il n'a pas été nécessaire de considérer ce dernier point. Au cours de cette même réunion, on a décidé de régler la question des empreintes digitales en décernant une sommation qui prévoierait la comparution aux fins de fournir des empreintes digitales, conformément à l'alinéa 455.5(5) du Code criminel.

33. D'après mes renseignements, M. RUTHERFORD a informé M. J.J. ROBINETTE à Toronto, vers 15 h 50, heure d'Ottawa (soit 16 h 50 à Fredericton) de tout ce dont on avait convenu, c'est-à-dire l'accusation, la prise d'empreintes digitales, les dates et les dispositions. Vingt-cinq minutes plus tard, le surintendant VERMETTE recevait un appel d'un journaliste de Fredericton lui disant qu'il avait appris du ministère de la Justice à Ottawa qu'une accusation allait être portée contre le Premier ministre le lendemain et qu'un officier de la Gendarmerie devait retourner à Fredericton le soir même à cette fin, et lui demandant de confirmer ces faits. Comme il se doit, M. VERMETTE a refusé tout commentaire. Il a malheureusement négligé d'inscrire le nom de l'appelant, puisque ce n'était qu'un des nombreux appels qu'il avait reçus tout au long de la journée; cependant, c'est le seul appel qui ait été aussi précis sur ce qui se passait, et le fait qu'on l'ait reçu si peu de temps après que la décision avait été communiquée à la Division et à M. ROBINETTE nous a alarmé considérablement. M. RUTHERFORD a été mis au courant de l'appel et il en a parlé à M. ROBINETTE. Ce dernier a confirmé qu'il avait transmis les renseignements à M. GILLIS à Fredericton, après avoir reçu l'appel de M. RUTHERFORD à 15 h 50. M. RUTHERFORD nous a déclaré qu'il n'avait eu aucune communication avec les médias durant cette période. Je suis convaincu que la fuite d'information n'est pas venue de la G.R.C. Reste à savoir qui a pris la peine de voir à ce que les médias soient mis au courant de l'affaire et dans quel but. Je n'ai pas à poursuive cette question davantage dans le cadre de mon étude interne. Cette fuite d'information a sans aucun doute transformé les événements des quelques heures suivantes en un véritable cirque pour les médias et les événements à Fredericton en ont subi les répercussions. Le

compte rendu suivant de l'inspecteur WALLER traduit bien les frustrations et les difficultés que cette fuite a entraînées.

> "Le 24 octobre 1984, au cours d'une réunion de hauts-fonctionnaires à laquelle j'ai assisté à Ottawa, on a décidé de porter une accusation de possession de marihuana contre Richard B. HATFIELD. Après avoir obtenu le libellé de la dénonciation des avocats du ministère de la Justice, je suis retourné à Fredericton le 25 octobre 1984, où je suis arrivé vers 20 h 55. M. Julian BELTRAME de l'agence SOUTHAM NEWS m'attendait à l'aéroport. Il m'a informé qu'il savait que je revenais avec une décision de porter une accusation contre M. HATFIELD et m'a demandé si j'avais des commentaires à faire à ce sujet. J'ai répondu que je n'avais rien à dire.
>
> À 22 h 30, le 25 octobre, le surintendant Jack MacLAUGHLAN, le surintendant George VERMETTE et moi-même nous sommes rencontrés au Quartier général de la Division "J", afin de rédiger une accusation en vertu du paragraphe 3(1) de la Loi sur les stupéfiants contre Richard HATFIELD, laquelle devait être signée par le juge James D. HARPER. On a préparé une sommation au retour fixé devant le juge Hazen STRANGE à Oromocto, le tribunal du comté dans lequel l'infraction avait été commise. Nous avons procédé ainsi suivant les conseils du ministère de la Justice à Ottawa et nous avons suivi leurs instructions pour ce qui est du libellé de la dénonciation. J'ai communiqué avec le juge HARPER à son domicile à Fredericton avant 23 h le 25 octobre 1984. Je l'ai informé que j'avais une dénonciation à porter et il m'a invité chez lui à cette fin. Je lui ai dit que nous serions là un peu après minuit. J'ai dû le rappeler pour reporter notre rendez-vous à 1 h le 26 octobre 1984. Lorsque nous sommes arrivés chez lui, le juge HARPER a lu la dénonciation et mis en question les mots "and elsewhere in the Province of New Brunswick" (et ailleurs dans la province du Nouveau-Brunswick) ainsi que "at or near Lincoln" (à ou près de Lincoln). Selon lui, la première phrase pourrait avoir un double sens et la seconde serait plus exacte si on disait "at the Fredericton Airport" (à l'aéroport de Fredericton). Après avoir fait ces remarques, il a admis qu'il s'agissait de ma dénonciation et qu'il n'avait pas voix au chapitre du libellé. Suivant ses conseils, le surintendant MacLAUGHLAN (qui m'accompagnait) et moi-même avons décidé de modifier la dénonciation en conséquence et de revenir plus tard, soit vers 8 h 30 le 26 octobre 1984, parce que nous n'avions pas les formules nécessaires en main. Au cours de notre première visite chez le juge HARPER et de ma conversation téléphonique subséquente avec lui, il a déclaré catégoriquement que, selon lui, nous commettions une grave erreur en faisant entendre cette affaire à Oromocto, dans ce qu'il a décrit comme étant une "ancienne école". Selon lui, l'affaire devrait être entendue dans les meilleures installations possibles à Fredericton. Il a répété la même chose à 8 h 30, disant que a) les affaires de l'aéroport sont habituellement entendues à Fredericton, b) les installations de Fredericton sont de beaucoup supérieures à celles

d'Oromocto, et c) il n'y a pas de problème de juridiction, puisque les juges du N.-B. sont nommés au niveau provincial. Suivant ses recommandations, j'ai changé le point de retour sur la sommation et indiqué Fredericton. J'ai témoigné depuis, au cours du procès ultérieur, que cette décision n'a pas été prise dans le but de choisir un juge en particulier ou de faire subir quelque préjudice au Premier ministre. Je me doutais bien que selon toute probabilité, le juge STRANGE se rendrait inhabile en raison de ses rapports antérieurs avec le parti conservateur et, même si le juge HARPER n'a rien dit à ce sujet, il me semblait que la décision était raisonnable. En rétrospective, elle ne l'était probablement pas. Malgré que le surintendant MacLAUGHLAN ait été présent, j'accepte l'entière responsabilité de cette décision.

À 11 h 45, le 26 octobre 1984, l'avocat du Premier ministre, Rodney GILLIS, m'a téléphoné pour me dire que M. HATFIELD désirait comparaître à 14 h et inscrire un plaidoyer. Je lui ai répondu qu'aucun procureur n'avait encore été nommé et que je le rappellerais.

À 11 h 47, le gendarme THEEDE du Dét. de Fredericton, chargé de la liaison avec les tribunaux, m'a téléphoné pour m'informer que M. GILLIS venait juste de demander au juge HARPER que le premier ministre comparaisse à 14 h. Le juge HARPER a répondu qu'il n'avait aucune objection, mais il a dit au gend. THEEDE de m'informer que le procureur de la Couronne devrait y être.

À 11 h 50, le surintendant MacLAUGHLAN m'a demandé d'aviser M. GILLIS que la sommation ne serait modifiée d'aucune façon. Nous nous doutions bien que M. HATFIELD et ses avocats essayaient de se soustraire aux exigences de la Loi sur l'identification des criminels inscrites sur la sommation, pour ne pas avoir à faire prendre ses empreintes digitales. J'ai fait part de cette décision à M. GILLIS à 12 h 14. J'ai demandé sa collaboration afin de signifier la sommation sans fanfare et d'éviter une représentation de "cirque". Pendant ce temps, la presse téléphonait à mon bureau sans interruption.

À 13 h 15, Rodney GILLIS m'a téléphoné pour me demander de le rencontrer dans le cabinet du juge HARPER, afin de signifier la sommation. Je lui ai demandé si le juge HARPER serait dans son cabinet ou dans la salle d'audience. Il a dit qu'il l'ignorait, ce qui était évidemment faux. Je savais que le juge HARPER avait également téléphoné à mon bureau pour me dire que je ne devrais pas venir au palais de justice, à cause de la presse et de la stratégie évidente de la Défense.

De toute manière, après en avoir discuté avec le surintendant MacLAUGHLAN, on m'a demandé de ne pas signifier la sommation dans le cabinet du juge HARPER ou dans la salle d'audience pour des raisons bien évidentes.

Peu de temps après, Rodney GILLIS a rappelé pour me dire qu'il abandonnerait l'idée de la salle d'audience, si j'acceptais de le rencontrer au salon des avocats, au palais de justice. Vers 14 h 15, je me suis rendu en compagnie du surintendant MacLAUGHLAN au palais de justice. Nous avons remarqué que de 20 à 25 reporters et caméramen bloquaient l'entrée principale. Nous sommes entrés par une porte latérale, mais nous avons constaté qu'il y avait des reporters dans tout l'immeuble, aux trois étages. Soupçonnant un coup monté, nous avons quitté les lieux, pour revenir au Quartier général de la Division "J".

À 14 h 58, on a transmis un appel de Rod GILLIS à mon bureau. Il voulait savoir pourquoi je ne m'étais pas présenté au rendez-vous et je lui ai répondu exactement pourquoi je n'y étais pas. Je lui ai dit que je soupçonnais un coup monté et j'ai essayé de lui laisser l'impression que je doutais de ses intentions.

Je lui ai demandé de me rencontrer au mess des officiers de la Division "J" de la G.R.C. Je lui ai affirmé que de cette façon, nous pourrions éviter la presse et discuter de cette affaire en privé, et que la sommation pourrait être signifiée à M. HATFIELD en lui évitant le plus d'embarras possible.

M. GILLIS s'est fâché en entendant cette suggestion et il a souligné qu'à cause de la façon dont la G.R.C. avait traité son client, il ne voulait rien savoir de la G.R.C. ou de la propriété de la G.R.C. J'ai alors proposé un rendez-vous au domicile du premier ministre le soir même, à 22 h, ce que M. GILLIS a également refusé. Il a suggéré une rencontre quelque part en ville, dans la rue, dans le terrain de stationnement du palais de justice. J'ai proposé n'importe quel autre endroit que le palais de justice et suggéré un terrain de stationnement ailleurs. J'ai suggéré le poste de police de la ville. Aucune de ces suggestions n'a plu à M. GILLIS. Il a dit que nous ne pouvions éviter la presse, et a ajouté qu'il me rencontrerait dans le bureau du maire à l'Hôtel de ville dans dix minutes. J'ai accepté de le rencontrer sur le perron de l'Hôtel de ville. Je me doutais de son intention d'utiliser la presse à son avantage, mais je n'avais pas le choix. Il fallait que je signifie la sommation le plus tôt possible.

À 15 h 09, le surintendant MacLAUGHLAN et moi-même avons rencontré M. Rod GILLIS sur le perron de l'Hôtel de ville. Compte tenu du fait que le maire est un "magistrat en chef" et qu'il détient des pouvoirs spéciaux, le surintendant MacLAUGHLAN et moi-même avions décidé de ne pas signifier la sommation dans le bureau du maire. J'ai fait part de cette décision à M. GILLIS, qui m'avait déjà informé qu'il y avait un grand nombre de "personnes" à l'intérieur. Il était tout à fait évident que la scène avait été organisée d'avance à l'intention de la presse. M. GILLIS m'a souri d'un air suffisant et a déclaré : "Vous voulez dire que

vous désirez signifier la sommation ici, en public." J'ai répondu que je ferais ce que lui et son client préféraient. Le surintendant MacLAUGHLAN et moi-même avons attendu sur le perron jusqu'à 15 h 21, et à ce moment, la porte s'est ouverte et le Premier ministre et son avocat sont sortis, entourés de caméramen, de photographes de la presse et de reporters. On nous a collé des microphones au visage. J'ai serré la main de M. HATFIELD et je lui ai dit : "J'ai le devoir de vous signifier ce document; veuillez l'examiner et si vous avez des questions à poser, je serai très heureux d'y répondre". Le Premier ministre n'avait pas de questions à me poser, mais Rod GILLIS s'est immédiatement mis à me bombarder de questions. J'ai essayé d'y répondre aussi rapidement que possible et du mieux que je pouvais; il était évident que M. GILLIS essayait de me troubler. Il a fini par s'arrêter et il est parti accompagné du Premier ministre." (Trad.)

Les médias ont sûrement fait preuve d'intérêt et d'agressivité; toutefois, il est certain qu'ils apprenaient de source sûre où se rendre et à quel moment. Cela n'était certainement pas l'oeuvre de la Gendarmerie qui, depuis le tout début de l'affaire, alors qu'on avait découvert que les médias avaient eu vent de la saisie, avait pris des mesures extraordinaires pour garder l'affaire sous silence et refuser de faire tout commentaire, au vif dépit des médias.

34. Le retour de la sommation était fixé au 21 novembre 1984. Plusieurs événements se sont produits entre la date de la signification de la sommation vers la fin d'octobre et le procès qui s'est tenu les 28 et 29 janvier 1985. Il est inutile que je fasse des commentaires sur les questions d'ordre juridictionnel et judiciaire qui sont de notoriété publique. Cependant, il y a une autre question qui exige des explications.

35. Lorsque le surintendant principal LING et l'inspecteur WALLER ont rencontré le Premier ministre HATFIELD le 28 septembre, ce dernier a affirmé que la marihuana trouvée dans sa valise ne lui appartenait pas. Il a également raconté que sa valise était souvent laissée sans surveillance dans des hôtels et ailleurs. Il a parlé d'un voyage qu'il avait fait à Toronto le vendredi 21 septembre en utilisant l'avion de la province, au cours duquel sa valise avait été laissée sans surveillance à l'hôtel King Edward. Vers la fin de novembre, M. David HUGHES, le procureur dans cette affaire, avait mentionné à l'inspecteur WALLER qu'il avait reçu des renseignements vagues concernant un prétendu voyage que le Premier ministre aurait fait à bord d'un aéronef du gouvernement, et au cours duquel on aurait fumé de la marihuana. M. WALLER a pensé qu'il s'agissait peut-être du voyage à Toronto mentionné par le Premier ministre et que la source de la marihuana pourrait se trouver parmi le groupe qui aurait participé à la partie. Il a donc demandé à M. HUGHES d'essayer d'obtenir des renseignements plus explicites.

36. Au début de décembre, M. HUGHES avait remis à l'inspecteur WALLER une copie d'une lettre partielle dont on ignore l'auteur. On y faisait mention de trois personnes, Peter DAIGLE, Mike KYTE et une autre dont on ignore le nom qui auraient fait la fête avec le Premier ministre et qui, le jour suivant, l'auraient accompagné en avion jusqu'à Montréal. Cette lettre n'indiquait pas non plus à quel moment cet incident s'était produit. On a donc cru qu'il s'agissait d'un incident récent, et par conséquent, on a entrepris une enquête sérieuse, et ce, au su du procureur de la Couronne et même à sa demande, puisqu'on pensait pouvoir obtenir des renseignements importants sur l'affaire. Quelques jours plus tard, on a pu établir que l'incident était survenu en 1981, mais l'enquête avait atteint le stade où elle ne pouvait guère être abandonnée, et de toute façon, sa valeur en tant que contre-preuve possible était évidente.

37. Vu les circonstances, il était normal que la G.R.C. mène une enquête. Notre but n'était cependant pas de ressasser de vieilles histoires. On peut par contre s'interroger sur ce qui a motivé les autres à faire renaître ce vieil incident à la fin de 1984; toutefois, après vérifications, je suis convaincu qu'aucun membre de la G.R.C. n'y était pour quoi que ce soit, et mon étude ne porte pas sur les actions des autres à moins que ceux-ci n'aient enfreint la loi de façon apparente. Lorsqu'une controverse touche des personnalités bien connues, il arrive très souvent que des histoires se répandent et la police doit alors être prudente avant d'y ajouter foi, parce qu'on pourrait bien tenter de la manipuler. Que cela ait été le cas ou non, le procureur et la police n'ont pas manqué de jugement en décidant de poursuivre l'affaire. On a pu retracer en partie la provenance de cette lettre partielle, mais j'estime inutile de faire des commentaires sur les motifs de ceux qui ont fait en sorte que cette lettre parvienne à M. HUGHES et par conséquent, à la G.R.C.

38. On s'inquiète surtout du fait que cette enquête a été rendue publique si rapidement. Nous avons tenté de retracer l'origine de cette publicité, mais n'avons abouti à rien, car il faudrait pour cela dépasser les limites du mandat qui nous a été confié pour cette étude interne. Il faudrait également obtenir la collaboration de représentants des médias, d'avocats et d'hommes politiques, mais aucun d'entre eux n'est tenu de nous dévoiler ses sources ni ses activités. Je peux cependant affirmer que cette lettre n'a pas été portée à la connaissance du public suite à des actions d'un membres de la G.R.C. Les représentants des médias ont assuré au surintendant principal BÉLANGER qu'en ce qui a trait à toutes les questions examinées, leurs sources ne travaillent pas pour la G.R.C. et notre étude interne n'a rien révélé à l'effet contraire. Les notes suivantes prises par le surintendant principal BÉLANGER, immédiatement après une discussion avec M. Hills de l'agence de presse Southam News appuient mes conclusions :

- "Suite à mes explications générales sur la nécessité et la portée d'une étude interne ordonnée par le Commissaire, M. Hills m'a souligné que je ne devais pas oublier qu'il était au service d'une agence d'information et que, par conséquent, cette entrevue constituerait un dialogue bilatéral si mes questions lui révélaient des renseignements. J'ai accepté que cette entrevue ne soit pas confidentielle.

- Il a fait ensuite les déclarations suivantes après s'être assuré que mon mandat ne me permettait pas d'enquêter sur des questions qui dépassent la compétence administrative de la G.R.C.

- Suite à ma demande concernant l'existence, le contenu et l'accès aux enveloppes brunes reçues à l'agence Southam News, et dont il avait été question dans l'article du Globe and Mail du 19 février 1985, M. Hills a répondu ce qui suit :

  Il s'est formellement engagé à protéger sa source à Ottawa.

  Aucune enveloppe brune n'a été reçue, étant donné qu'elles n'existent pas.

  Les enveloppes brunes n'étaient qu'une diversion, créée par lui-même, en vue de protéger sa source.

  L'agence de presse Southam News n'a reçu aucun document.

  Un employé de l'agence a vu une copie d'un document, mais Hills ne l'a pas vu.

  Aucun membre de la G.R.C. n'a remis de document. En fait, M. Hills a indiqué qu'on ne devrait pas se préoccuper à ce sujet, puisque Southam News n'a reçu aucun renseignement de la G.R.C., ni d'Ottawa ni de Fredericton.

  Il a obtenu ce tuyau important le 31 janvier 1985, soit le jeudi précédent la parution de l'article dans la Gazette du 4 février, puis a transmis les renseignements à son reporter Julian Beltrame qui était chargé des enquêtes sur place. Les renseignements réunis justifiaient la publication de l'article.

  M. Hills est d'avis que la soirée au cours de laquelle Hatfield aurait fourni des drogues à des étudiants, en 1981, constitue un incident beaucoup plus grave que la simple possession d'une petite quantité de marihuana et compte tenu de la question de moralité sous-jacente, il estime qu'il avait de bonnes raisons de publier un article sur les événements de cette soirée.

  Il se dit préoccupé de ce qu'on n'ait pas porté d'accusation en vertu du Code criminel et il a fait des observations sur des incidents inhabituels reliés au procès lui-même, tout particulièrement le fait qu'on n'a pas attaché beaucoup d'importance aux empreintes digitales comme éléments de preuve.

> Il m'a laissé entendre que si mon rapport n'était pas publié intégralement, il en résulterait de nouvelles allégations de camouflage par la G.R.C.
>
> Il ne m'a pas révélé d'autres renseignements, car il estimait m'avoir donné les renseignements nécessaires aux fins de l'étude interne.

39. M. HILLS nous a beaucoup aidé en confirmant que la G.R.C. n'était pas responsable de la diffusion de ces renseignements. J'estime qu'on doit lui être reconnaissant d'avoir été aussi franc. Il a refusé de révéler sa source, ce qui est compréhensible de la part d'un journaliste, à moins qu'il ne soit tenu de témoigner sous serment. Toutefois, il a fait de son mieux pour écarter les soupçons qui pèsent sur la G.R.C., ce qui est important, étant donné que la G.R.C. et ses membres ne devraient pas être attaqués injustement, surtout si des soupçons ou de fausses accusations entraînent une perte de confiance du public face à une institution qui assume des responsabilités importantes au nom des Canadiens. Il importe que le Premier ministre du Nouveau-Brunswick et les résidents de cette province prennent consience du fait que les membres de la G.R.C. n'ont fait que leur devoir et ne sont pas responsables de toute la publicité qui en a résulté, exception faite des renseignements qui ont filtré au début de l'enquête.

40. Toutefois, l'allusion qu'a faite M. Hills aux "enveloppes brunes" est très importante. Dans une déclaration publique qu'il a prononcée le 13 février dernier, le Premier ministre HATFIELD a dit, entre autres, ce qui suit : "On m'a fait savoir qu'au même moment, certains représentants des médias, partout au pays, ont reçu des enveloppes brunes, non marquées, contenant les deux déclarations. Qui a envoyé ces enveloppes et pourquoi? Ce commentaire semble être l'un des éléments de la soi-disant thèse du complot. Où le Premier ministre a-t-il pu obtenir ces renseignemnts? Je ne connais pas avec certitude tous les articles qui ont été écrits à ce sujet, mais je crois savoir que les "enveloppes brunes" ont été mentionnées pour la première fois dans un article de Hugh WINSOR, paru dans le Globe and Mail du 19 février dernier. Je cite :

> "Mais l'histoire a tout de même été publiée, ce qui prouve encore plus la thèse du complot, selon M. HATFIELD et son défenseur habituel Dalton CAMP. Même avant que les allégations de possession de marihuana et de cocaïne soient rendues publiques, M. CAMP, un ami intime de la famille qui rédige fréquemment les discours de M. HATFIELD et le conseille, parlait à la radio et rédigeait des articles mettant en doute le rôle de la G.R.C. dans cette affaire et exigeant la tenue d'une enquête. Récemment, M. CAMP a déclaré que le ministère de la Justice avait délibérément divulgué à l'agence de presse Southam News des renseignements sur la soirée au cours de laquelle le Premier ministre aurait consommé de la drogue en compagnie d'étudiants.

> Nicholas HILLS, directeur général de l'agence de presse Southam News, a confirmé que, suite à l'enquête qu'il a menée à Ottawa, le service des nouvelles a reçu une ou plusieurs "enveloppes brunes" après qu'il ait commencé à travailler à cet article.
>
> La version de M. CAMP ne concorde pas avec l'histoire du reporter qui aurait appris l'existence d'un témoin (étudiant) possible au procès. Le correspondant du Globe dans les provinces de l'Atlantique, Michael HARRIS, a déclaré que l'origine de l'histoire tenait davantage du hasard que d'une bonne gestion M. HARRIS aurait entendu Peter DAIGLE, maintenant devenu chef à Halifax, poser des questions à l'inspecteur WALLER, à l'extérieur du tribunal de Fredericton, au sujet du paiement des frais d'un témoin.Sachant que le jeune homme n'avait pas témoigné au cours de ce procès, M. HARRIS a décidé de poursuivre l'affaire. Avec Julian BELTRAME de Southam, il a localisé au moins un autre étudiant qui se trouvait à la maison de M. HATFIELD au cours de cette soirée et encore un autre qui avait vu le groupe à l'aéroport de Fredericton prendre l'avion à destination de Montréal.
>
> L'histoire n'avait que peu de lien avec l'accusation de possesion de marihuana portée contre M. HATFIELD qui venait d'être rejetée. Est-ce qu'on pouvait ou devait l'imprimer?
>
> Dans les bureaux de rédaction de Southam et du Globe, on consultait plusieurs avocats. Finalement, l'agence Southam a décidé de publier les allégations des étudiants, en se basant surtout sur les déclarations sous serment obtenues à Ottawa". (Trad)

41. Comme on l'a indiqué au par. 38, notre étude a révélé qu'il n'y a jamais eu d'"enveloppes brunes" et que celles-ci n'avaient été inventées que pour protéger une source. Si c'est le cas, qui a alors dit au Premier ministre qu'il y en avait eu, ce qui a eu pour effet de renforcer la thèse du complot; et quoi d'autre lui a-t-on rapporté? La déclaration du Premier ministre indique qu'il croyait que les représentants des médias avaient reçu des copies des déclarations faites par deux témoins. L'article du Globe and Mail fait allusion aux "déclarations sous serment faites à Ottawa". Notre étude révèle que si les représentants des médias ont réellement vu un document, ce n'était ni des déclarations, ni des déclarations sous serment, mais plutôt un document d'une toute autre nature. Je n'ai pas l'intention de faire d'autres conjectures, car je suis convaincu que la G.R.C. n'est pour rien dans ce qui a été vu ou dit.

42. J'ai annexé une copie de l'article du Globe and Mail qui mérite d'être examiné. Même s'il contient des erreurs, il brosse un tableau assez exact de la situation. Un commentaire me touche plus particulièrement. On a écrit : "On sait déjà que M. Simmonds s'oppose en général à la mise en accusation pour possession de marihuana".(Trad.) Je n'ai jamais adopté cette position; en fait, j'ai plutôt recommandé des peines minimales pour des accusations mineures de possession. Comme vous le savez, j'ai fait des commentaires sur une différente méthode d'application de la loi en ce qui a trait aux accusations mineures de possession; toutefois, je n'ai jamais adopté la position qu'on m'attribue. Malheureusement, si on répète quelque chose assez souvent, le mythe tend à se confondre avec la réalité.

43. Je voudrais maintenant faire des commentaires sur un autre aspect de cette partie de l'enquête. Après que les enquêteurs de la G.R.C. aient obtenu des déclarations de messieurs DAIGLE et KYTE et après avoir décidé qu'on ne pouvait entamer des poursuites judiciaires en se fondant sur ces histoires, les autres personnes présentes se sont rangées à mon avis, mais même si ce n'avait pas été le cas, je n'aurais pas consenti à ce qu'un membre de la G.R.C. dépose une dénonciation en se fondant sur les preuves à notre disposition. Il était tout de même évident que leur témoignage pourrait être important pour la contre-preuve, si la défense s'orientait dans une certaine direction. Prenant des précautions infinies pour s'assurer qu'on se montre juste, le procureur et M. RUTHERFORD auraient décidé que des avocats du ministère de la justice devraient rencontrer messieurs DAIGLE et KYTE afin de vérifier la "crédibilité" de ces témoins, au cas où on aurait besoin d'eux. M. RUTHERFORD a pris des arrangements pour que M. Roger Leclaire rencontre M. KYTE à Toronto. La rencontre a eu lieu le 25 janvier dans l'appartement de KYTE à Toronto. Ce jour-là, Leclaire se trouvait dans cette ville pour une autre affaire. Il était accompagné d'un membre de la G.R.C. de Toronto qui avait pris la première déclaration de KYTE. Je ne m'attarderai pas sur cette entrevue, je traiterai plutôt des deux incidents qui ont suivi.

44. L'entrevue avec KYTE a eu lieu le matin. Vers 14 h ce jour-là, KYTE a reçu un appel d'une inconnue qui lui a demandé s'il allait témoigner. Il était bouleversé et a vite quitté l'appartement. Dehors, il a remarqué un homme avec un appareil photo qui, lui semblait-il, a commencé à le suivre. Il a essayé de le semer. Plus tard, il a reçu tellement d'appels d'inconnus qu'il a emménagé dans la maison d'un ami pour éviter tout contact. Qui étaient ces personnes? des représentants des médias? des détectives privés? L'appel téléphonique était-il relié à la présence de l'homme à l'appareil photo? Ces personnes étaient-elles au courant de la visite de M. Leclaire dans la matinée au sujet de la comparution possible de KYTE à titre de témoin? S'agissait-il d'une simple coïncidence?

45. Le second incident est survenu quelques jours plus tard. Le 1er février à 16 h 05, M. Leclaire a reçu à son bureau un appel de M. John NUNZIATA, député. M. Leclaire nous a relaté la conversation qui s'est engagée. Je ne crois pas nécesaire de donner ici tous les détails de cette conversation, je dirai simplement que, compte tenu du fait qu'il s'agissait d'un appel imprévu d'une personne qui, de toute évidence, était très au courant de l'affaire, M. Leclaire s'en est très bien tiré. Il est clair que M.NUNZIATA a prétendu tout

savoir à propos de KYTE et être au courant du fait que le Commissaire avait jugé qu'on ne pouvait entamer des poursuites judiciaires en se fondant sur l'incident de 1981. En outre, il estimait que le Premier ministre avait peut-être joui d'un traitement de faveur. Comment M. NUNZIATA a t-il pu obtenir ces détails? Comment était-il au courant de la rencontre entre MM. Leclair et KYTE? L'aurait-il appris de KYTE lui-même ou des représentants des médias qui, tel qu'il a été mentionné, avaient une source à Ottawa qu'ils tenaient beaucoup à protéger, au moins à un certain moment. Y a-t-il un lien entre l'appel de M. NUNZIATA et ce qui s'est produit à Toronto après la visite de M. Leclair?

46. Afin de clarifier la situation et surtout de déterminer si un membre de la G.R.C. aurait pu être mêlé à ces événements, ce qui renforcerait les allégations du Premier ministre selon lesquelles certains membres de la G.R.C. voulait lui faire du tort, le surintendant principal BÉLANGER a communiqué le 17 avril avec M. NUNZIATA en vue de fixer une rencontre avec lui. À notre grande surprise, M. NUNZIATA a rendu publique cette demande et selon un rapport qui a paru dans le Toronto Star le 19 avril dernier, il a qualifié notre demande de harcèlement. Cela est tout à fait absurde; nous ne voulions qu'obtenir la collabration d'un député responsable, afin d'établir si le point de vue du Premier ministre était le moindrement fondé. Malheureusement, l'entrevue avec M. NUNZIATA n'a pas eu lieu, car le 22 avril dernier, il a communiqué avec le surintendant principal BÉLANGER pour lui dire qu'il était disposé à le rencontrer cet après-midi là, mais uniquement en présence de deux reporters. M. BÉLANGER a refusé, à juste titre. La G.R.C ne mène pas ses enquêtes de cette façon et lorsqu'il s'agit d'affaires délicates, on lui reprocherait très justement sa conduite si elle agissait ainsi.

47. Egalement, nous aimerions avoir une entrevue avec le Premier ministre Hatfield. Nous avions établi, au début de notre étude, qu'on chercherait à obtenir une entrevue au moment approprié; toutefois, en raison des sérieuses allégations faites à l'endroit de la G.R.C., nous avons jugé prudent d'attendre jusqu'à ce qu'on ait examiné d'autres aspects. Par conséquent, ce n'est que le 27 mars qu'on a contacté le bureau du Premier ministre. Celui-ci a tout de suite indiqué son désir de collaborer avec nous. Toutefois, on n'a pas pu fixer de date pour la rencontre entre le Premier ministre et son avocat, et le surintendant principal BÉLANGER. On espère que cette rencontre aura lieu d'ici deux semaines. On veut évidement déterminer si le Premier ministre a obtenu des renseignements directs qui l'auraient amené à croire que des membres de la G.R.C. voulaient sa perte. Les déclarations qu'on lui a attribuées semblent indiquer qu'il en est venu à cette conclusion par suite d'une combinaison de facteurs -- le présent rapport traite de la plupart d'entre eux -- plutôt que suite à des preuves directes. Toutefois, si l'entrevue avec le Premier ministre révèle de nouveaux indices, nous poursuivrons l'enquête. En l'absence d'autres renseignements, on ne peut tirer guère plus de l'étude interne.

48. Je suis très préoccupé, comme le sont d'ailleurs tous les membres de la Gendarmerie, par une déclaration que l'on prête au Trésorier et ministre intérimaire de la Justice du Nouveau-Brunswick John BAXTER, rapportée dans le Toronto Sun du jeudi 14 février dernier. Dans un article intitulé "RCMP OUT TO GET ME" on peut lire ce qui suit dans les trois derniers paragraphes, et je cite :

> "Le Trésorier et ministre intérimaire de la Justice John BAXTER, qui se trouvait aussi dans l'avion, a déclaré que :
>
> "La Gendarmerie est un organisme puissant et les gens ont peur de dire franchement ce qu'ils en pensent".
>
> "Il y a lieu de s'inquiéter... (au sujet de) certains membres de la Gendarmerie qui veulent rappeler certains politiciens à l'ordre".
>
> "La Gendarmerie ne devrait certainement pas avoir parmi ses objectifs un plan visant à faire tomber un gouvernement élu démocratiquement, mais c'est justement ce qu'elle essaie de faire au Nouveau-Brunswick" (Trad.)

49. Monsieur le ministre, je peux vous assurer, à vous ainsi qu'à tous les Canadiens, et tout particulièrement à ceux qui habitent la province du Nouveau-Brunswick, que la Gendarmerie n'a aucun plan visant à faire tomber un gouvernement élu par le peuple et que nous n'avons pris aucune mesure dans ce sens au Nouveau-Brunswick.

50. À partir du moment où on a découvert de la marihuana dans la valise du premier ministre, je crois que chacun des membres a pensé qu'il s'agissait d'une "situation sans issue", et voilà la seule raison qui peut expliquer les premiers moments d'incertitude quant à la façon de traiter la question. Toutefois :

- la Gendarmerie n'est pas responsable de la réunion de la presse au moment où on a signifié la sommation;
- la Gendarmerie n'est pas responsable d'avoir révélé les allégations de 1981;
- la Gendarmerie n'a rendu public, ni divulgué, aucun renseignement relatif à l'affaire de 1981, après l'acquittement du premier ministre Hatfield le 29 janvier dernier.

Par contre, on ne peut pas nier que ces faits se sont produits et si le premier ministre en a conclu que les responsables de ces événements étaient ceux-là même qui avaient permis que cet incident soit diffusé à l'extérieur de la G.R.C. les 25 et 26 septembre dernier, on peut comprendre qu'il ne fasse pas confiance à la Gendarmerie, ou à certains de ses membres. Nous espérons

toutefois que ce rapport servira à apaiser certaines de ces craintes. Je reconnais que puisque le rapport n'identifie pas les coupables, le doute subsistera. Cependant, les limites d'une étude interne n'exigent pas et ne me permettent pas de pousser mon enquête plus loin que pour m'assurer qu'il n'a pas lieu de douter de la conduite des membres de la Gendarmerie.

51. Dans mon rapport, je reconnais qu'il y a eu manque de discrétion et donc manque de professionnalisme au début. Toutefois, il s'agissait plutôt d'une attitude générale et personne ne peut être tenu responsable de la divulgation initiale aux médias. Si cela ne s'était pas produit, il est probable que le premier ministre et M. BAXTER auraient été moins souçonneux par la suite. Néanmoins, ce genre de conduite est inacceptable de la part d'un organisme discipliné et professionnel et je prendrai donc les mesures internes suivantes.

- Tous les membres de la Division "J" devront lire ce rapport, ce qui en soit est plutôt pénible. Mais, en demandant à tous les membres de le faire, nous sommes certains que ceux qui ont trop parlé comprendront parfaitement le problème occasionné par leur manque de discrétion. De plus, tous et chacun pourront réfléchir sur le serment qu'ils ont prêté lorsqu'ils étaient encore des recrues. Chaque membre devra certifier par écrit qu'il a lu le rapport, qu'il comprend la signification du serment qu'il a prêté et qu'il l'accepte comme relevant de son mandat.

- Je donnerai des directives afin que le commandant divisionnaire, ou, en son absence, un autre officier supérieur, assiste à tous les cours de formation en cours d'emploi qui seront offerts dans la division au cours de douze prochains mois, afin de pouvoir discuter ouvertement avec les membres de tous les aspects d'une conduite professionnelle digne d'un policier.

52. L'idée d'avoir à prendre des mesures aussi exceptionnelles est loin de me plaire, parce que je me rends parfaitement compte que les membres de la Division "J" répondent, à peu d'exception près, très bien aux critères de leur profession et je suis fier de leurs réalisations. Toutefois, étant donné qu'il m'est impossible d'identifier ceux qui pourraient avoir oublié les règles du jeu, je suis forcé de prendre ces mesures contre tous, afin que notre conduite demeure au-dessus de tout soupçon et que nous conservions la confiance du public.

54. Je n'ai évidemment rien à dire de la conduite des autres, mais je suis persuadé que les commentaires suivants sont nécessaires. Les actions de la Gendarmerie font l'objet d'une critique sévère. Il faudra donc pouvoir prouver les faits ou rétracter les accusations portées contre elle. En déterminant les mesures qu'il faut prendre, s'il y a lieu, je crois que l'on devrait se rappeler les points suivants :

i) On peut attribuer la plus grande responsabilité de tous ces événements à la personne, qui qu'elle soit, qui a déposé la marihuana dans la valise du premier ministre. Son geste insensé et illégal a provoqué toutes ces préoccupations, cette peine et cette anxiété.

ii) La femme non identifiée qui a ameuté les médias au tout début de cette affaire, est responsable des événements qui en ont amené certains à se méfier des motifs de la G.R.C. Cette personne, plutôt que de se cacher sous le couvert de l'anonymat, nous rendrait un immense service si elle dévoilait son identité et révélait la source de ses renseignements. Si elle était par hasard l'agent d'un membre de la Gendarmerie malintentionné, il faudrait le savoir et traiter la question en conséquence. Si ce n'est pas le cas toutefois, il faudrait en toute justice que l'on cesse de se méfier des membres de la Division, afin que le public et le gouvernement de la province puissent continuer d'accorder leur confiance aux membres de la Gendarmerie.

iii) La Gendarmerie a reconnu qu'elle n'a pas agi convenablement et elle a adopté des mesures pour régler cette question. Toutefois, je n'ai aucune preuve de ce qu'un membre ait agi intentionnellement, et à moins que le dame susmentionnée se présente et prouve le contraire, il n'y a pas raison de penser autrement.

iv) Les techniques d'enquête, compte tenu des circonstances, étaient tout à fait appropriées. On aurait critiqué autant la Gendarmerie de ne pas les avoir appliquées qu'on la critique maintenant parce qu'elle a effectué une enquête détaillée.

v) Il n'existe absolument aucune preuve de ce que la Gendarmerie ait été derrière la divulgation de l'incident de 1981 en décembre 1984, ni que la Gendarmerie ait participé à la divulgation de ces renseignements aux médias ou à un député après le procès. Les médias et le député ont refusé d'identifier leur source, mais les médias ont déclaré qu'il ne s'agissait pas de la Gendarmerie. On pourrait même douter de ce qu'ils ont réellement vu ou entendu. Le député ne nous a fourni aucun renseignement utile pouvant éclaircir cet aspect de la question.

vi) Lorsqu'un personnage politique en vue est impliqué d'une façon ou d'une autre dans des questions de ce genre, on peut être certain que la meute de journalistes va chercher à monter l'affaire en épingle. De telles circonstances peuvent aussi inciter ceux qui ont des tendances politiques ou idéologiques différentes à s'intéresser de façon excessive à tout ce qui entoure les événements. Évidemment, au coeur d'une société démocratique, chacun a son rôle à jouer, et si cet intérêt se manifeste de façon responsable et sans mauvaise intention, on ne devrait pas avoir grand chose à redire. Si ce n'est pas le cas cependant, cela nous en apprend davantage sur ces personnes que sur leur cible.

vii) Je peux vous assurer qu'à aucun moment au cours de cette enquête, le premier ministre du Nouveau-Brunswick, le procureur général du Nouveau-Brunswick, le procureur général du Canada, le Solliciteur général du Canada, ou n'importe quel autre ministre ou agent de l'administration fédérale ou provinciale n'est intervenu ou n'a donné de directives non appropriées. Si cela s'était produit, nous ne l'aurions pas accepté. Je toucherai davantage à cette question dans un addenda au présent rapport, en raison des questions soulevées par l'honorable Bob KAPLAN devant le Comité permanent de la Justice et des questions juridiques, le 14 mars dernier.

54. Il reste encore certaines questions connexes à éclaircir. Dans son jugement, l'honorable juge HARRIGAN a déclaré qu'il était possible que quelqu'un ait mis la marihuana dans la valise du premier ministre. En analysant les témoignages présentés par des membres de la Gendarmerie, cela laisse une question en suspens, c'est-à-dire : M. RYAN pourrait-il avoir participé à une telle activité? On a mené une enquête approfondie à ce sujet à la Division "J" et, d'après les conclusions de cette enquête, M. RYAN n'était aucunement impliqué dans l'affaire, il n'a commis aucune infraction et il a eu vent de l'affaire de la façon décrite dans le présent rapport. On notera au paragraphe 19 que lorsqu'il a parlé à des membres de la Division "J" le 27 septembre, M. RYAN avait déclaré que sa source était un membre féminin du Comité d'organisation de la visite de la Reine. En retardant la date du début de l'étude interne jusqu'après le procès, j'ai toujours cru que nous pourrions parvenir presque directement à la source et apprendre d'où elle tenait tous ses renseignements. Toutefois, lorsque nous avons commencé notre étude après le procès, M. RYAN a alors affirmé que c'était M. WHITE qui l'avait mis au courant des faits, de la façon décrite par M. WHITE. Il a affirmé que son premier témoignage n'était qu'une ruse afin d'encourager les gens à parler et à confirmer l'affaire. Toutefois, cette ruse n'a fait que retarder notre enquête, nous empêchant de parvenir directement à la source comme nous l'avions prévu. Nous n'avons découvert aucune preuve démontrant qu'il pourrait s'agir d'un coup monté. Le premier ministre affirme depuis le début qu'il ne savait rien de l'histoire et, dans le cas de M. RYAN, on a prouvé, dans la mesure du possible, qu'il n'était aucunement impliqué dans cette affaire. Cette conclusion nous amène à nous poser une autre question inquiétante : si on répond par la négative à la question en suspens du juge HARRIGAN, doit-on en conclure que les membres de la Gendarmerie ont présenté des faux témoignages au cours du procès?

56. Tout au long du présent rapport, j'ai reconnu qu'il y avait eu "bavardages" au début de l'affaire. Par conséquent, j'ai étudié à fond la transcription des témoignages et j'ai comparé les témoignages présentés par les membres aux conclusions subséquentes de notre étude interne. J'en ai tiré mes propres conclusions, et je suis d'avis qu'il n'y a aucune raison de conclure que ces membres auraient présenté des faux témoignages. Cependant, comme je ne suis pas convaincu que l'on me jugera suffisamment qualifié pour apporter cette conclusion, j'ai demandé au surintendant principal BÉLANGER de présenter tout les documents pertinents au directeur des Services juridiques - à la G.R.C., aux fins d'évaluation. Ce dernier, M. Bruce A. MacFarlane, m'a fait connaître

son opinion par écrit et il a conclu qu'il n'y avait aucune raison de croire qu'on aurait commis un parjure et que, puisque tel était le cas, il n'était pas nécessaire de soumettre la question au procureur général de la province. Je souligne ce fait parce que, aux termes de notre politique, lorsqu'un de nos membres est soupçonné d'avoir commis un acte criminel, on doit présenter un rapport complet au procureur général et lui demander de nous fournir des directives quant aux poursuites à mener. Nous agissons de la sorte afin que nul ne puisse croire que la Gendarmerie tente d'excuser un comportement criminel de la part d'un de ses membres. Toutefois, puisqu'il n'y a ici aucune raison de croire qu'une infraction criminelle a eu lieu, il n'y a évidemment aucune raison d'en référer au Procureur. Cependant, je discuterai de cette question avec l'honorable F.G. DUBÉ, procureur général, dans un avenir rapproché, afin de m'assurer qu'il est satisfait de nos conclusions. Toutefois, il est bien entendu que si ce rapport incitait la "dame non identifiée" à révéler son identité et que son compte rendu impliquait un membre qui a témoigné au procès, il faudrait se pencher de nouveau sur la question et on demanderait alors au procureur général de nous donner des directives à ce sujet.

56. Je voudrais faire un dernier commentaire sur les reportages des journalistes relativement à cette affaire. Après avoir analysé la majorité de ces reportages, il me semble y avoir toute une suite de conjectures menant à penser que sans la publicité qui a été consacrée à cette affaire, la Gendarmerie aurait couvert les faits. Une citation de l'article de M. WINSOR, auquel j'ai déjà fait allusion, exprime parfaitement cette opinion, je cite :

> "Dans tout cela, il est fort possible que M. HATFIELD ait lui-même empiré la fâcheuse situation dans laquelle il se trouvait en demandant un rendez-vous secret à M. MacKay, en vue de discuter de l'enquête. Même si la question de savoir si on devait ou non porter une accusation à l'endroit du premier ministre ait été débattue pendant des semaines aux niveaux hiérarchiques les plus élevés de la Gendarmerie et du ministère de la Justice, une fois la saisie de marihuana rendue publique, les autorités compétentes n'avaient pas d'autre choix que de porter une accusation. En effet, si on avait agi autrement, on aurait pu laisser croire que M. Hatfield avait étouffé l'enquête au cours de sa rencontre avec M. MacKay".(Trad.)

Cet article n'est pas le seul à avancer de telles suppositions, et je ne l'ai utilisé que pour illustrer cette opinion. Évidemment, ce ne sont que des sottises pleines de naïveté, qui prouvent à quel point ces gratte-papiers comprennent peu le fonctionnement du processus de prise de décisions. En vérité, à partir du moment où le s^{dt} p^{al} LING a confirmé qu'il fallait saisir la marihuana, soit peu de temps après sa découverte, on a amorcé sans crainte ni passe-droit les procédures qui s'imposaient. On a peut-être agi avec plus de lenteur et de prudence qu'à l'habitude, mais on a tout de même pousuivi l'affaire jusqu'au bout. Pour ma part, en qualité de commissaire de la Gendarmerie, après avoir demandé l'opinion professionnelle de personnes compétentes en la matière au sein de la Gendarmerie et du ministère de la Justice, j'en suis venu à certaines conclusions et j'ai donné les directives qui s'imposaient. Si les journalistes croient qu'en rendant cette affaire publique, ils ont influé sur le processus de prise de décisions, d'une part ils

surestiment beaucoup leur influence et leur importance, et d'autre part, ils sousestiment le professionnalisme des hauts fonctionnaires qui doivent prendre des décisions en se basant sur les faits qui sont devant eux, et non sur une intrigue ou influence d'ordre politique. Il est évidemment nécessaire que les médias fassent preuve d'agressivité et se permettent de temps à autre une certaine licence, afin que les affaires du public soient conduites comme il se doit et avec intégrité. Toutefois, des spéculations fondés sur des faits non vérifiés sont dangereuses, parce qu'il n'est dans l'intérêt de personne que l'on fasse moins confiance à nos institutions, ou aux personnes à qui il incombe de mener les affaires publiques, et ce en se basant sur une supposition ou une rumeur.

57. Je ne peux poursuivre cette affaire plus loin. J'invite toutefois quiconque possède des renseignements tendant à prouver qu'un des membres de la Gendarmerie a agi de façon non professionnelle dans le cadre de cette affaire, à les présenter, afin que nous puissions effectuer une enquête sur le bienfondé de ses allégations. Si on peut prouver la véracité de ces renseignements, nous traiterons alors la question sur-le-champ et comme il se doit, et par le fait même, tous les autres membres seront à l'abri de tout soupçon. Sans ces renseignements, je continuerai pour ma part, à faire entière confiance aux membres de la Division "J" et à croire en leur engagement au service des citoyens du Nouveau-Brunswick et du Canada entier.

58. Le présent rapport laisse un certain nombre de questions sans réponse. Toutefois, il serait peu convenable de ma part de me servir d'une étude interne sur la conduite des membres de la G.R.C. pour faire des commentaires sur les gestes d'autres personnes, outre ce qui s'impose pour mettre en relief correctement le rôle joué par les membres de la G.R.C. Le premier ministre Hatfield a formulé de graves allégations contre la Gendarmerie, ou contre certains de ses membres, et, comme je l'ai dit à l'alinéa 53, ces allégations devraient être établies comme faits, ou être retirées. En dépit du peu de réponses définitives apportées aux questions qui dépassent la portée de mon étude, je suis d'avis que le présent rapport sera utile pour les personnes désireuses d'examiner le rôle de la Gendarmerie sous un angle plus optimiste. À plusieurs reprises, on a demandé la tenue d'une enquête publique sur cette affaire. Ce n'est pas à moi de commenter la nécessité d'une telle enquête, mais permettez-moi de souligner que, si cette atmosphère chargée de soupçons à l'égard de la Gendarmerie, et à l'égard des motifs de ses membres du Nouveau-Brunswick, n'est pas écartée, il me sera difficile d'admettre que la question a été résolue à la satisfaction de tous. Toutefois, si le présent rapport permet que des jugements soient rendus sans qu'il soit nécessaire de mettre sur pied une autre tribune où pourrait être assignée et assermentée chaque personne touchée (policier, politicien, représentant des médias, fonctionnaire du gouvernement, avocat et public en général), et où serait recueillie chaque bribe d'information, mon initiative n'aura alors pas été vaine. Ce qui importe maintenant est de continuer notre travail au nom des citoyens canadiens dans une atmosphère de confiance, après avoir clairement établi que l'erreur est humaine. Toute cette aventure est un récit de la conduite humaine, commençant par les actes de la personne qui a mis la marihuana dans le sac du premier ministre et rapportant ensuite, après qu'on l'ait trouvée, l'interaction entre les gens à mesure que la nouvelle se répandait, jusqu'à ce

que tous ceux qui y ont été mêlés, peu importe leur responsabilité, leur intérêt ou leur motivation, aient été entraînés dans une affaire qui a pris beaucoup plus d'ampleur que ce à quoi on s'attendait. L'événement était mineur, les personnalités étaient de haut niveau; peut-être le résultat était-il inévitable.

59. Vous trouverez ci-joint l'addenda auquel je faisais mention au sous-alinéa 54(vii), ainsi qu'une copie de la déclaration publique faite par le premier ministre Hatfield le 13 février 1985, et une copie de l'article du Globe and Mail du 19 février 1985. Nous avons en dossier cinq volumes de coupures de journaux portant sur cette affaire, au cas où vous désireriez examiner davantage les commentaires et les inquiétudes du public qui ont été exprimées depuis le 20 octobre 1984.

Le Commissaire,

(R.H. Simmonds)

ADDENDA au rapport de l'enquête de la G.R.C. sur l'affaire Hatfield

1. À l'alinéa 54 (vii), j'ai souligné qu'aucun ministre, ni aucune autre personne, que ce soit du gouvernement fédéral ou du gouvernement provincial, n'a tenté de donner un ordre irrégulier, ni, d'aucune façon, d'influer sur les décisions que la police a prises à mesure que cette affaire progressait. J'étais en congé pendant les deux semaines de la fin de janvier et du début de février. À mon retour au poste le 11 février, j'ai découvert que la presse faisait grand cas d'une rencontre qui avait eu lieu à Ottawa le 7 octobre 1984 entre l'honorable Elmer MacKay et le premier ministre Hatfield. On insinuait que le Solliciteur général avait peut-être donné des ordres irréguliers à la Gendarmerie à la suite de cette rencontre.

2. Comme le Solliciteur général a toujours maintenu une position parfaitement convenable face à la Gendarmerie au cours de cette enquête, je me suis senti obligé de le défendre, de mon propre gré, afin de mettre les choses au clair. Je l'ai fait au cours de plusieurs discussions que j'ai eues au téléphone avec des personnalités de la presse écrite, parlée et électronique, le 11 février dernier. J'ai fait valoir deux aspects importants. En premier lieu, le Solliciteur général n'a en aucune façon influé sur notre travail ou sur nos décisions et, en second lieu, s'il avait tenté de le faire, nous aurions refusé, parce que cela aurait représenté une obstruction inacceptable au principe de l'indépendance et de la discrétion de la police. Dans cette optique, et puisque, au moment où le ministre a rencontré le premier ministre aucune accusation n'avait encore été portée, je n'ai pas trouvé que cette rencontre représentait une menace ou un danger pour ce qui touchait notre travail. Cette rencontre n'a eu absolument aucune répercussion sur ce que nous faisions.

3. Lors d'une réunion du Comité permanent de la Justice et des questions juridiques qui a eu lieu le 14 mars 1985, l'honorable Bob KAPLAN a émis le commentaire suivant :

> "Merci, monsieur le président. J'aurais de nombreuses questions à poser, mais les divergences qui existent entre vous, monsieur le ministre, et moi quant aux attributions et responsabilités du Solliciteur général constituent sans nul doute possible la question qui m'intéresse le plus. Et à cette occasion, qui ne m'est donnée que très rarement, je récuse totalement ou presque les propos qui auraient été tenus par le commissaire de la G.R.C. et je voudrais donc me reporter à ces déclarations et vous définir la façon dont, à mon avis, le Solliciteur général devrait rendre compte des activités de la G.R.C. au Parlement. Je voudrais savoir ce que vous en pensez.
>
> Vous avez critiqué la position que j'ai fait mienne à de nombreuses occasions, à savoir qu'il faut prendre à la lettre l'article 5 de la Loi sur la Gendarmerie royale du Canada, selon lequel le Commissaire est placé sous la direction du Solliciteur général. Donc, pour moi, si le Solliciteur général donne un ordre au Commissaire

et que cet ordre est tout à fait licite, il doit être exécuté. S'il n'est pas licite, il ne devra évidemment pas être exécuté. On ne peut demander à aucun fonctionnaire d'exécuter un ordre illicite. Par conséquent, si vous demandez au Commissaire d'envoyer des agents tabasser certains de vos ennemis, il devra désobéir à cet ordre, mais si vous lui demandez de mettre fin à une enquête ou d'en effectuer une, cet ordre est tout à fait licite à mon avis.

Mais je voudrais ajouter dans la foulée que je considère pareil ordre comme irrégulier dans des circonstances normales. À mon avis, cet ordre est tout à fait contraire à la tradition même de la G.R.C. qui se veut indépendante, tradition que doit respecter le Solliciteur général à ses risques et périls. Mais lorsqu'il intervient à bon escient, si le Commissaire... Je crois pouvoir le citer. Voici ce qu'il dit :

> En fin de compte, nous avons le droit tout à fait indépendant d'effectuer des enquêtes s'il y a lieu de le faire et aucun ministre ne peut nous en empêcher.

Si les propos qui ont été ainsi rapportés sont exacts, nous vivons alors dans un État policier. Nous vivons dans un État où le corps policier peut défier tout ordre licite qu'il lui aura été donné par l'autorité civile.

Et je crois que tout commissaire responsable et sensé qui recevrait un ordre irrégulier -- fermez ce dossier ou fichez la paix à Un tel -- y réfléchirait à deux fois avant de l'exécuter. Il serait, par exemple, tout à fait en droit d'appeler le Premier ministre et de lui dire que son Solliciteur général lui a donné tel ou tel ordre et de lui demander ce qu'il en pense. Dans de telles circonstances, le Premier ministre pourrait lui répondre qu'il en parlerait à l'intéressé ou qu'il doit le limoger si ce dernier donne des ordres de ce genre; le Premier ministre pourrait également dire au Commissaire de l'exécuter puisque cet ordre lui a été donné par le ministre.

Dans ce cas-là je crois qu'un commissaire de la trempe de l'actuel Commissaire donnerait vraisemblablement sa démission, tout comme l'a fait M. Nicholson lorsque John Diefenbaker lui a donné un ordre tout à fait licite auquel il ne voulait pas s'associer. Je ne veux pas vous rappeler ce qui s'est passé, mais je pense sincèrement que lorsque le Solliciteur général donne un ordre tout à fait licite en application de l'article 5 de la Loi sur la Gendarmerie royale du Canada, cet ordre doit être exécuté.

Mais je ne suis pas surpris que ce genre de problème soit considéré comme relevant de la théorie ou presque, car il ne survient que très rarement et justement il ne devrait se poser que très rarement. Mais parfois, le Solliciteur général est amené à juste titre

à donner un ordre à ce propos. C'est la raison pour laquelle -- et j'y reviendrai lorsque vous m'aurez dit ce que vous en pensez -- vous ne devriez pas vous entretenir, alors que la situation ne l'exige pas, avec des gens qui font l'objet d'une enquête, et certainement pas dans les conditions dans lesquelles vous l'avez fait, puisque vous avez refusé de dire ce que vous avez fait à la suite de cet entretien auquel personne n'a assisté, exception faite d'un représentant de votre parti dont la tâche est de vous faire voir sous votre meilleur jour. Vous savez, on ne peut guère dire que votre chef de cabinet soit dans la lignée de la tradition indépendante de la G.R.C., tant s'en faut. Alors je voudrais vous demander si vous souscrivez ou non à la définition que je viens de vous donner de vos attributions et responsabilités envers le Commissaire de la Gendarmerie royale du Canada."

4. Le Solliciteur général a répondu à la question de l'honorable Kaplan et on m'a ensuite invité à y répondre. Avant que je ne puisse le faire, la sonnerie a mis fin aux débats. On n'a pas discuté davantage de la question à la séance suivante du Comité. La question est importante parce que, si l'honorable Bob KAPLAN a raison, je serais moi aussi très inquiet si le Solliciteur général devait rencontrer des personnes soupçonnées ou contre lesquelles des accusations ont été portées et que, par la suite, il avait le pouvoir de donner des ordres à la police relativement à ce qu'elle peut faire et ne peut pas faire. Toutefois, avec tout le respect que je lui dois, je ne puis admettre un tel argument. Mon raisonnement est le suivant :

(i) L'article 5 de la Loi sur la Gendarmerie royale du Canada se lit comme suit :

> "Le gouverneur en conseil peut nommer un officier, appelé commissaire de la Gendarmerie royale du Canada, qui, sous la direction du Ministre, est investi de l'autorité sur la Gendarmerie et de la gestion de toutes les matières s'y rattachant."

(ii) L'article 17 de la Loi sur la Gendarmerie royale du Canada se lit comme suit :

> "(1) Le Commissaire, comme chaque sous-commissaire, commissaire adjoint ou surintendant principal, est d'office un juge de paix investi de tous les pouvoirs de deux juges de paix.
>
> (2) Chaque surintendant, comme chaque autre officier désigné par le gouverneur en conseil, est d'office juge de paix.

(3) Tout officier ainsi que toute personne nommée par le Commissaire aux termes de la présente loi pour être agent de la paix sont des agents de la paix dans toute partie du Canada et jouissent de tous les pouvoirs, de toute l'autorité, de toute la protection et de tous les privilèges que les lois accordent à un agent de la paix.

(4) Tout officier, comme tout membre nommé par le Commissaire pour être agent de la paix, jouit, à l'égard de la législation fiscale du Canada, de tous les droits, privilèges et immunités d'un préposé de la douane et de l'accise, y compris le pouvoir d'effectuer des saisies d'effets pour infraction à la législation fiscale et de préposer des dénonciations dans des poursuites intentées en vue du recouvrement des amendes à cet égard."

(iii) L'article 18 de la Loi sur la Gendarmerie royale du Canada se lit comme suit :

"Il est du devoir des membres de la Gendarmerie qui sont agents de la paix, sous réserve des ordres du Commissaire,

a) de remplir toutes les fonctions confiées aux agents de la paix en ce qui concerne le maintien de la paix, la lutte préventive contre le crime, les infractions aux lois du Canada et aux lois en vigueur dans toute province où ils peuvent être employés, l'arrestation des criminels et des contrevenants ainsi que d'autres personnes qui peuvent être légalement mises sous garde;

b) d'exécuter tous les mandats qui peuvent, selon la présente loi ou les lois du Canada ou les lois en vigueur dans quelque province, être légalement exécutés par des agents de la paix, et, à cet égard, de remplir toutes les fonctions et d'accomplir tous les services qui peuvent être légalement effectués par ceux-ci, selon la présente loi ou les lois du Canada ou les lois en vigueur dans une province quelconque;

c) de remplir toutes les fonctions qui peuvent être légalement exercées par des agents de la paix à l'égard de l'escorte et du transfèrement de condamnés et d'autres personnes sous garde, à destination ou en provenance de quelque tribunal, lieu de punition et de détention, asile ou autre endroit; et

d) de remplir les autres attributions et fonctions que prescrit le gouverneur en conseil ou le Commissaire."

(iv) J'admets que le Ministre a de grands pouvoirs de direction sur le Commissaire de la G.R.C. en ce qui regarde l'autorité du Commissaire sur la Gendarmerie, et la gestion de toutes les matières qui s'y rattachent. Par contre, je ne puis admettre que les pouvoirs de direction du Ministre l'emportent sur les responsabilités, autorités et pouvoirs inhérents d'agents de la paix qui sont investis d'office à chaque membre à sa nomination. En vertu du paragraphe 17(3), le Commissaire, et tout autre membre régulier de la Gendarmerie, est un agent de la paix.

(v) La charge de "gardien de la paix" est née avec la Common Law. Il ne faut pas la prendre à la légère, et je crois qu'une bonne partie de la Common Law de l'Angleterre s'applique à cette charge telle qu'elle est perçue au Canada. La jurisprudence canadienne est plutôt silencieuse relativement à cette question, mais, toutefois, je crois depuis longtemps que le principe qui doit nous guider est celui qu'on retrouve dans l'affaire R. c. Metropolitain Police Commissionner, Ex parte BLACKBURN, dans laquelle Lord DENNING, M.R., déclare :

> "La charge de Commissaire de la police de la métropole remonte à 1829, date à laquelle Sir Robert Peel a mis sur pied sa Gendarmerie disciplinée. Le Commissaire était un gardien de la paix nommé spécialement pour administrer le service de police de la métropole. Aucune loi ou tribunal n'a jamais défini son statut constitutionnel. La Commission royale de la police a examiné cette question dans son rapport en 1962 (Cmnd. 1728). Toutefois, je n'hésite pas à soutenir que, comme tout autre gardien de la paix du pays, il doit être, et est, indépendant du pouvoir exécutif. Il n'est pas soumis aux ordres du Secrétaire d'État, sauf qu'aux termes de la Loi sur la police de 1964, ce dernier peut lui demander de remettre un rapport, ou de démissionner pour des raisons d'efficacité. Je suis d'avis qu'il est du devoir du Commissaire de police, ainsi que de tous les officiers de paix, de faire appliquer la loi dans le pays. Il doit prendre des mesures afin que ses hommes soient postés en vue de détecter les crimes, et afin que les citoyens honnêtes puissent vaquer à leurs occupations en toute tranquillité. Il doit décider s'il faut poursuivre ou non des personnes soupçonnées d'un crime, et, au besoin, entamer des procédures ou veiller à ce que ce soit fait; mais, dans toute cela, il n'est le serviteur de personne, sauf de la loi elle-même. Aucun ministre de la Couronne, et aucune autorité policière, ne peut lui dire s'il doit ou non faire surveiller un endroit ou un autre, ou s'il doit

> poursuivre un homme en particulier ou un autre. La responsabilité de l'application de la loi lui appartient. Il rend des compte à la loi et à la loi seulement. C'est ce qui semble assez clair dans l'affaire Fisher c. Oldham Corpn.(14), et dans la cause du Conseil privé Le Procureur général de New South Wales c. Perpetual Trustee Co. (Ltd)(15)." (Traduction)

Cette déclaration est tirée d'un long jugement que l'on retrouve dans les All England Law Reports (1968) I All E.R.

5. L'honorable M. KAPLAN déclare que la position que j'ai prise, et que je considère juste, équivalait à celle d'un État policier. Encore une fois, avec tout le respect que je lui dois, je ne suis pas du même avis. La charge du gardien de la paix, par les pouvoirs conférés à ce dernier, semble avoir été structurée expressément, comme il est mentionné ci-haut, afin de s'assurer qu'on ne permet pas à la définition la plus courante d'un État policier de se développer. Cette définition veut qu'un État policier naisse lorsqu'un gouvernement se sert de ses corps de police comme instruments de répression contre les citoyens du pays. C'est pour parer à cette situation que la police jouit d'un niveau élevé d'indépendance. Ce degré d'indépendance n'est pas dangereux, parce qu'après tout, il y a plusieurs façons d'amener un Commissaire capricieux à rendre des comptes, ou de punir un policier qui a commis des actes répréhensibles. La nomination du Commissaire est "discrétionnaire". Il peut être limité dans ses décisions se rapportant au budget, et les activités de tous les agents de la paix peuvent être portées devant les tribunaux.

6. En outre, l'honorable M. KAPLAN se dit d'avis que le Commissaire n'a pas d'autre choix que de donner suite à des ordres se rattachant à toutes les questions, y compris celle de savoir s'il peut enquêter sur une personne ou porter des accusations contre elle; s'il n'est pas d'accord avec ces ordres, il n'a d'autre choix que de remettre sa démission. Je ne suis pas nécessairement d'accord. Le Commissaire n'est pas nommé par le Ministre, mais plutôt par le gouverneur en conseil en vertu du Grand Sceau du Canada. Si le Ministre tentait de restreindre le pouvoir discrétionnaire du Commissaire à titre d'agent de la paix, et non pas ses responsabilités en matière de contrôle et de gestion de la Gendarmerie, je crois qu'il n'aurait qu'à ne pas tenir compte de l'ordre et à laisser le Ministre porter sa cause devant le gouverneur en conseil en vue de demander la démission du Commissaire. Il serait intéressant de voir le résultat. Le cas du Commissaire NICHOLSON auquel l'honorable membre du Comité a fait mention ne se compare pas. Si je comprends bien, le Ministre de l'époque avait refusé d'appuyer le Commissaire au sujet d'une question administrative qui nécessitait le consentement du Ministre, soit de muter du personnel entre provinces afin de répondre à une situation difficile. Lorsque le Ministre a refusé de donner son accord, mettant ainsi gravement en doute le jugement professionnel du Commissaire et sa façon de diriger la Gendarmerie dans une situation de crise, ce dernier a fait ce que la plupart des hommes honorables auraient fait à sa place, il a remis sa démission. Bien sûr, la distinction qui se pose est que le Ministre n'a pas mis en doute l'autorité du Commissaire en tant qu'agent de la paix, mais plutôt son jugement et son leadership.

7. Les opinions que j'ai exprimées en détail donnent je crois une perspective différente de la rencontre entre le ministre et le premier ministre Hatfield. Le Ministre n'est pas le Procureur général chargé des poursuites et, si je ne me trompe pas, ses pouvoirs d'ordonner sont tels qu'ils sont décrits dans la loi, et alors il m'importe peu, en tant que Commissaire, de connaître l'identité des personnes qu'il rencontre. Si une accusation avait été portée, et si la rencontre avait eu lieu avec le juge chargé de l'affaire, la question aurait été quelque peu différente, mais ce n'est pas ce qui s'est passé. De toute façon, le Ministre m'a décrit le ton de sa conversation avec le premier ministre, mais ne m'a donné aucun ordre.

8. En conclusion, j'aimerais préciser que je ne suis pas avocat. J'en suis arrivé à ces opinions au cours des années, grâce à mon expérience de policier et à mon interprétation de la loi en tant que profane. Quoiqu'il en soit, je suis d'avis que la question est plutôt de nature théorique que pratique : depuis mon accession à la charge de Commissaire de la G.R.C., cinq solliciteurs généraux se sont succédés, et jamais je n'ai eu le sentiment qu'on voulait restreindre mon droit de faire enquête là où j'avais des motifs raisonnables de croire qu'il y avait eu infraction criminelle, ou de ne pas faire enquête, s'il n'y avait pas de motifs suffisants.

Le Commissaire,

R.H. Simmonds

(R.H. Simmonds)

SECOND ADDENDA au rapport de l'enquête de la G.R.C. sur l'affaire Hatfield

1. Au paragraphe 47 de mon rapport, je vous soulignais qu'il restait encore une étape avant de compléter notre étude, c'est-à-dire d'avoir une entrevue avec M. Hatfield pour les raisons énonçées. Je peux maintenant vous dire que le s^dt p^al Bélanger a pu rencontrer M. Hatfield, en présence de son avocat, le 14 mai dernier. Je reprends ici les notes que le s^dt p^al Bélanger a prises au cours de sa rencontre avec le Premier ministre.

1. Selon les dispositions prises, j'ai rencontré maître Ronald Gillis à l'hôtel Lord Beaverbrook à Fredericton à 19 h 30 le 14 mai, puis nous nous sommes rendus à la résidence de M. Hatfield où l'entretien a commencé à 19 h 45. La participation de M. Gillis a été très minime pendant tout l'entretien qui a duré cinquante minutes, et il n'a fait que préciser les sujets de discussion sur lesquels on s'était déjà entendus.

2. J'ai d'abord fait quelques remarques d'ouverture sur la portée générale et le but de cette étude interne, sur le moment choisi pour l'entrevue et sur la condition de plaignant de M. Hatfield, après quoi ce dernier a demandé quelles étaient les circonstances qui avaient permis de rendre public le fait qu'il n'avait pas encore été interrogé. J'ai attribué cette divulgation aux renseignements transmis par le Commissaire au Comité permanent de la justice et des questions juridiques, qui est un comité public. Lorsque M. Gillis a parlé d'un article de journal qui reliait John Nunziata à cette affaire, je l'ai informé que M. Nunziata était membre de ce comité de la Chambre. Le Premier ministre a semblé satisfait de cette explication. (En fait, ce qui est arrivé, c'est qu'au cours d'une réunion du Comité permanent de la justice et des questions juridiques, le 26 mars 1985, le député Svend ROBINSON m'a posé directement la question suivante : "Je vois. Le Premier ministre provincial a-t-il été interrogé dans le cadre de cette enquête? J'ai alors répondu : Non, pas à cette étape").

3. En ce qui a trait aux enveloppes brunes dont il était question dans la déclaration publique faite par le Premier ministre le 13 février 1985, il a déclaré ce qui suit :

- compte tenu des relations qu'il a avec un grand nombre de personnes à titre de premier ministre du Nouveau-Brunswick, il ne croit pas approprié de révéler l'identité de la ou des personnes qui lui ont transmis ces renseignements

- bien que le terme "enveloppe brune" ait pu être un euphémisme, ce qui importait vraiment, c'était le contenu de ces "enveloppes", c'est-à-dire les déclarations des personnes qui ont par la suite été interviewées à la télévision

- sa source ne l'a pas informé de la façon dont les dites déclarations ont été obtenues - que ce soit par les personnes dont il est fait mention ou un organisme officiel. N'étant pas, au tout début, au courant du rôle joué par le ministère fédéral de la Justice, il a cru que les déclarations avaient été transmises par la G.R.C.

- il ne connaît pas la nature exacte de la documentation fournie, et ne sait pas comment elle a été distribuée

- il a reçu ces renseignements entre la publication de l'article dans la Gazette de Montréal (85.02.04) et sa déclaration publique (85.02.13)

- troublé, avec raison, par le fait que les médias avaient eu vent de la saisie effectuée à l'aéroport de Fredericton, avant qu'il en soit informé par le s^{dt} p^{al} Ling, il avait de bonnes raisons de croire en la distribution d'enveloppes brunes.

4. Le Premier ministre Hatfield a alors confirmé des déclarations qui lui avaient été attribuées par la Presse canadienne, voulant que :

- certains membres de la G.R.C. aient délibérément transmis des renseignements en rapport avec une enquête sur une accusation en vertu de la Loi sur les stupéfiants, portée contre lui l'automne dernier

- "Ce ne sont pas tous les membres de la G.R.C., seulement un, deux ou trois. Ce n'est pas parce qu'il y a quelques pommes pourries que le baril en entier est à jeter (ou quelque chose du genre)"

- "certains membres de la G.R.C. transmettent depuis des années des rumeurs et des allusions malveillantes à mon sujet"

- il ne se rappelle pas avoir déclaré lui-même, pour soutenir une déclaration de John Baxter, que "certains membres pourraient essayer de renverser le Gouvernement"

- il souligne de nouveau que les déclarations précédentes ne doivent pas être interprétées comme une accusation générale portée contre la G.R.C. Dans ses rapports avec les médias, il a toujours pris soin de souligner que ses remarques s'adressaient à quelques membres seulement, et non à l'ensemble de la Gendarmerie.

5. Le Premier ministre Hatfiled n'a aucune preuve ou aucun renseignement précis pour soutenir ses croyances. S'il en avait eu, ces preuves auraient été transmises aux autorités compétentes.

Cette réaction est à l'image de la position qu'il a adoptée au cours des échanges enflammés qu'il a eus avec l'Opposition au Parlement.

6. De façon générale, les appréhensions du Premier ministre face à la G.R.C. semblent bien enracinées, et depuis longtemps. Réellement préoccupé des fuites d'informations qui sapent le rendement et l'intégrité des divers ministères et d'autres organismes gouvernementaux, il est d'avis que les autorités compétentes doivent faire tous les efforts possibles en vue de réduire ces incidents inacceptables. Sa principale préoccupation quant aux fuites d'informations présumées par la G.R.C., contre l'administration de son gouvernement, est fondée sur les deux incidents suivants :

1) l'enquête sur les commissions frauduleuses du milieu des années 1970, alors qu'un grand nombre de renseignements précis et détaillés avaient été transmis à la presse.

2) la fuite d'information en rapport avec la saisie de drogues à l'aéroport de Fredericton, compte tenu du fait que les membres ont témoigné sous serment qu'ils avaient respecté la directive qui leur avait été donnée de ne pas discuter de cette affaire, ni entre eux, ni avec des gens de l'extérieur de la G.R.C.

7. Par conséquent, bien qu'il ait admis que la fuite en rapport avec la saisie de drogues pouvait être attribuable à un manque d'attention, il n'en reste pas moins, à son avis, qu'une telle situation entraîne des conséquences sérieuses, qui devraient être étudiées par les autorités compétentes.

8. Pour faire suite à ses observations, je lui ai assuré que le Commissaire était également très préoccupé par la question et qu'il ne ménageait aucun effort pour découvrir la vérité, puisque la question centrale de l'intégrité de l'organisation était d'une importance primordiale.

9. Soulevant la question de la publication possible des résultats de cette entrevue, le Premier ministre Hatfield a demandé s'il serait traité de la même façon que les autres. Il m'a aussi demandé si ne pouvait lui dire si ses réponses demeureraient confidentielles ou si elles serait rendu publiques. Dans la formulation de sa question, le Premier ministre a semblé confondre les normes de confidentialité qui entourent généralement une enquête criminelle par rapport aux différentes exigences reliées aux résultats d'une étude interne, pour lesquels il pourrait être essentiel de donner une réponse publique. J'ai d'abord clarifié cette confusion, puis j'ai informé le Premier ministre Hatfield que les résultats de cette entrevue seraient transmis directement au Commissaire. Je lui ai en outre dit qu'il m'était impossible de

m'engager quant à l'utilisation qui serait faite de ces renseignements, puisque la décision revenait au Solliciteur général du Canada en consultation avec le Commissaire. J'ai eu l'impression qu'il désirait que le résultat de cette enquête soit porté à la connaissance du public.

2. On pourra constater que les renseignements donnés par le Premier ministre ne nous fournissent aucun indice supplémentaire qui pourrait être étudié dans le cadre de l'étude interne. Ses soupçons quant à la nature de certains membres sont profondément enracinés et, je l'espère, mal placés. Il se peut que la publication de ce rapport puisse appaiser quelques-unes de ses plus profondes préoccupations, mais il pourrait bien ne pas être prêt à accepter l'idée que les membres de la Gendarmerie n'ont eu qu'un petit rôle à jouer en ce qui a trait à toute la publicité qui a entouré l'enquête sur la marihuana, puisque j'ai été incapable de préciser les agissements et les sources d'autres personnes qui ont eu beaucoup à dire. Je ne peux pas poursuivre mon enquête de par les pouvoir qui me sont conférés par la Loi sur la G.R.C., et si on a besoin de plus de renseignements, il faudra procéder autrement. Personnellement, je suis d'avis qu'une telle enquête n'apporterait rien de plus que d'occuper l'attention du public. Tous ceux qui ont eu quoi que ce soit à faire dans cette affaire ont été interrogés, sous serment, en vue de déterminer leur conduite et ce qu'ils connaissaient de l'affaire, et toutes les questions connexes ont été examinées par une batterie d'avocats représentant divers intérêts. Je suis persuadé de l'intégrité des membres de la G.R.C., dans les limites de ce que j'ai souligné au début de mon rapport, et j'ai déjà précisé la façon dont je compte traiter cette question. Si tous les autres intéressés faisaient le point sur leur rôle, pour ce qui est de l'avenir, il me semble que la question pourrait bientôt être oubliée.

Le Commisaire

R.H. Simmonds

(R.H. Simmonds)

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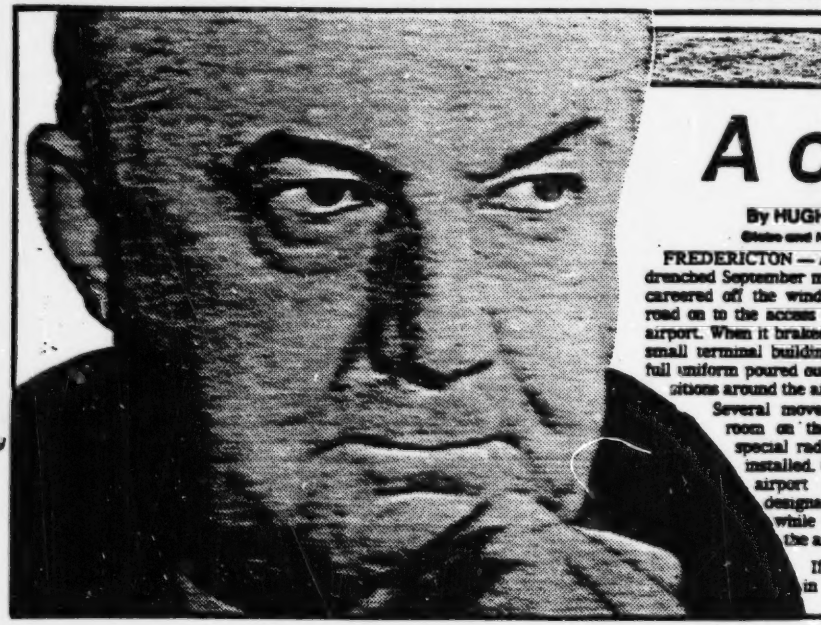

THE TRIALS OF RICHARD HATFIELD

A chronicle of credibility

By HUGH WINSOR
Globe and Mail Reporter

FREDERICTON — About 9 o'clock on a sun-drenched September morning, a chartered bus careered off the winding, two-lane Oromocto road on to the access road to the Fredericton airport. When it braked to a halt in front of the small terminal building, 23 RCMP officers in full uniform poured out of the bus and into positions around the airport.

Several moved to a large "control" room on the third floor, where a special radio transmitter had been installed. One officer took over the airport manager's office and designated it the "safe" room, while others fanned out on to the airport roof.

If there were palm trees in the background, or movie cameras rolling, it could be the scenario for a coup d'état. Moreover, if the accusations of New Brunswick's acting justice minister, John Baxter, are taken to their logical conclusions, the scene was part of the RCMP's "plan to bring down an elected government."

The Mounties were in a hurry because they were half an hour late to establish the security protection for the Queen and Prince Philip, whose special plane was to arrive two hours later, at 11 a.m., last Sept. 25.

It was the beginning of a sequence of events that eventually led to a charge and subsequent acquittal of New Brunswick Premier Richard Bennett Hatfield for possession of marijuana; to Mr. Hatfield's protestations that he had been mistreated by both the press and the criminal justice system; and to Mr. Baxter's claim that the national police force was trying to bring down the Government of New Brunswick.

In the process, Mr. Hatfield also has made serious allegations of a conspiracy "to disgrace me and force my removal from office." The alleged conspiracy involves an unnamed person or persons who Mr. Hatfield says planted marijuana in his suitcase and "orchestrated these new false accusations" about a drug party at his home.

Mr. Hatfield also has accused some members of the RCMP of being "out to get him," of spreading innuendo and rumors about him and of leaking information about the marijuana seizure and subsequent police investigation.

From the resulting furor, a remarkable story has dribbled out. It details a whole fabric of special treatment accorded a special suspect. That, in turn, has brought persistent calls for the resignation of Solicitor-General Elmer MacKay and raised questions about the impar-

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● From Page One

tiality of Justice Minister John Crosbie, who endorsed the Hatfield acquittal while he was still responsible for deciding on a possible appeal.

Out of it all comes the real possibility that Mr. Hatfield himself exacerbated his predicament by demanding a secret meeting with Mr. MacKay to discuss the investigation. Although the debate about whether to charge the Premier wracked the highest levels of the RCMP and the Justice Department for weeks, once the news of the marijuana seizure became public, the officials had little choice but to lay charges. To have done otherwise would have created the appearance that Mr. Hatfield had killed the investigation during his meeting with Mr. MacKay.

THE TENDRILS of this story never stop. In acquitting Mr. Hatfield, Chief Provincial Court Judge Andrew Harrigan pointed a finger of guilt at a television reporter who was not charged, had not been near the airport and against whom no evidence had been adduced. The reporter, Pat Ryan of Atlantic Television, was singled out because he received a tip about the drug seizure and tried to check it out.

The judge's treatment of the reporter sparked another outrage, including demands for the creation of a judicial council to discipline errant judges.

On the other side, there are some nagging questions as to whether the news media have gone too far by raising incidents and evidence not dealt with in the trial.

So much that is special about this case comes back to the special circumstances of the royal tour. To deal with the various allegations and questions about the case, it is necessary to trace some of those special circumstances to their conclusion.

Most obviously, the Mounties wanted to avoid embarrassing the Queen and her host while she remained in the province. So they departed from usual investigative procedures. That, in retrospect, may have damaged their legal case.

That Mr. Hatfield, or at least his suitcase, was drawn into the web was in itself a last-minute circumstance — adding a layer of complexity to the conspiracy theory laid out by the Premier. If, as he charged last week, someone intent on destroying him planted 35 grams of marijuana in his suitcase at the airport on Sept. 25, the person or persons would have to have been both adroit and lucky.

Assuming they had not had prior access to his suitcase, they would have to have known that Mr. Hatfield's travel plans were switched that morning from the provincial Government plane (where there would be no baggage examination) to the royal plane (where all parcels or luggage would be scrutinized).

Moreover, they would have to have penetrated the elaborate security at the airport to go to the second-floor office of the assistant airport manager during the brief period that Mr. Hatfield's unmarked and untagged suitcase was left there.

The only other scenario would place the blame on one of the RCMP officers on the security detail who had brought along a plastic bag of marijuana on the off chance that this would be his day to "get" the Premier. According to the testimony at the trial, none of the Mounties present was aware of Mr. Hatfield's plans, however, until the airport manager asked them to put the Premier's suitcase on the royal plane.

The Queen had arrived at the airport on time and had departed for a day of activities in downtown Fredericton. The man on the security detail had only to check a blue-black garment bag and see that it got aboard the royal plane.

Until then, the royal visit had been boringly smooth from a security point of view. Then, about 2:20 p.m., Corporal Jack Hoffman, an 18-year veteran of the force usually stationed 200 kilometres away in St. Stephen, put his hand into the upper left-hand pocket of the garment bag.

Cpl. Hoffman withdrew a brown envelope and glanced at Staff-Sergeant Thomas Robertson, a 25-year veteran who was in charge of airport security that day. "What about this?"

"Open it," Sgt. Robertson ordered. That is when they saw the plastic bag filled with what was referred to in later testimony as a "dry, plant-like material." But several of the nine officers in the room had done drug work before; they knew they were looking at marijuana.

Usually, police officers would seize the suitcase and confront the owner. The owner, however, was Premier Richard Hatfield; in the main compartment of the suitcase was the tuxedo he was to wear as host of a state dinner for the Queen that evening. Nothing in the service manual covered the situation.

The Mounties began a desperate series of calls to headquarters for instructions. The commanding officer, Chief Superintendent Denis Ling, could not be reached; he was with the royal party at Mr. Hatfield's invitation.

The debate in the control room continued as the hour approached for the official party to return. The Mounties even considered replacing the plastic bag and looking the other way. The acting commanding officer, Superintendent George Vermette, usually in charge of administration, could not reach his opposite number responsible for criminal investigations, who was away on a course.

The joint drug squad composed of RCMP officers and local police was involved in a drug cleanup. Raids on Fredericton High School and rock concerts were causing havoc and heartache. The sons and daughters of prominent families were acquiring criminal records and having career options destroyed.

COULD THE RCMP make an exception for the Premier of the province?

Finally, Supt. Ling was located. He did not want to disrupt the royal tour or embarrass anyone. He knew that, if Mr. Hatfield had to play host to the dinner in the same clothes he had worn all day while the Queen wore her tiara, the press would be on the story in an instant.

Keep the bag but let the suitcase go, and don't tell anybody, he ordered.

The next day, Sept. 28, Supt. Ling informed RCMP headquarters in Ottawa, and the Solicitor-General was briefed. The usual practice is to send drug samples for identification to the Halifax laboratory by registered mail, but, this time, they were taking no chances. Sgt. Robertson drove to Halifax with the sample and waited until the next day for the results. In the meantime, a fingerprint expert was working on the plastic bag.

The RCMP did not contact Mr. Hatfield, because, as Supt. Ling testified, he did not want to make accusations until he was sure of what he had at the lab.

About 4 p.m., while the royal tour was in Moncton, Gerry White, a technical producer in the Moncton newsroom of ATV, answered a call from what he described later as a well-spoken woman who said she wanted to talk to a reporter.

She wanted to inform a reporter about a drug seizure that the RCMP had made from Mr. Hatfield the day before in Fredericton. Mr. White asked whether the woman realized the seriousness of what she was saying, and she replied that she certainly did. She wanted a story done, she said, because she was afraid the RCMP would cover it up. She said the story could be checked with Supt. Vermette.

Mr. White immediately informed his boss, Pat Ryan, ATV's New Brunswick news director, about the call. Mr. Ryan later reached Supt. Vermette by telephone at his home in Fredericton. According to Mr. Ryan, Supt. Vermette said, "There's something to it, but I'm not sure how much is supposed to be public." The next afternoon, Sept. 27, Mr. Ryan talked to Supt. Ling for half an hour.

Supt. Ling testified that he did not confirm anything about the investigation. Mr. Ryan did not broadcast the story, but his call raised the anxiety level several notches at RCMP headquarters. Supt. Ling was worried that the story was out before he had even dis-

cussed the issue with Mr. Hatfield.

Later that same evening, after the news, Mr. White took another call in the ATV Moncton newsroom. It was the same woman to whom he had spoken the previous afternoon. She implored ATV to keep digging. Mr. White asked her not to talk to any other news organization.

The next morning, Sept. 28, Supt. Ling and Inspector Richard Waller, the man in charge of the Hatfield investigation, met the Premier at his home on Elmcroft Place. Supt. Ling apologized for his "unpleasant duty," read the standard police caution and then informed Mr. Hatfield of the seizure and that he was a suspect in a police investigation.

The Premier nodded that he understood. Then he told the officers that the marijuana was not his and that he needed legal advice. Then, as the officers prepared to leave, the Premier talked about recent trips he had taken, including a quick overnighter to Toronto on the Government plane where somebody might have planted the plastic bag.

The officers did not interview Mr. Hatfield again, but the denial offered by the Premier at this time became a contentious legal point at the trial — much turns in law on whether this was a spontaneous denial of possession the instant a suspect was confronted with the seizure, or whether it was a denial after having three days to think about it.

Crown prosecutor David Hughes argued that the Premier would be aware that the plastic bag was missing since Sept. 25 and had been warned by Supt. Ling's phone call the day before of the impending "urgent matter" and so would have had time to concoct an explanation.

But Judge Harrigan ruled that, since this was the first time the Premier had been confronted with the accusation, his reply was spontaneous and exculpatory. The RCMP had decided to be diplomatic at the airport and not confront the Premier immediately, and it became a major hole in the Crown's case.

There is little doubt the RCMP was handling the whole matter with kid gloves. For a start, the meeting at the Premier's home was extraordinary. Then Supt. Ling also informed Mr. Hatfield about his phone call the evening before from Mr. Ryan. "We may not be able to keep a lid on this one," he told the Premier.

Supt. Ling thought the warning was a courtesy, but it formed the basis for Mr. Hatfield's later charges that the RCMP leaked the story to "get" him.

THE LEAK about which Mr. Hatfield complained never surfaced publicly, but rumors abounded. About a week after he was first approached by the RCMP, Mr. Hatfield called the Solicitor-General seeking an urgent meeting to express his complaints about the pace and style of the RCMP investigation.

It was a call that should have rung alarm bells throughout the justice system, since Mr. MacKay had already been briefed by the Mounties that Mr. Hatfield was being investigated and the Solicitor-General had had an extraordinary meeting on Oct. 3 with Mr. Ryan, who still had not reported the story.

Nevertheless, Mr. MacKay went to the Chateau Laurier on Thanksgiving Sunday (Oct. 7) to hear out the Premier.

Despite this special meeting with the Mounties' boss and the other special arrangements adopted by the RCMP because of his position, Mr. Hatfield was later

[illegible] special meeting [illegible]

to complain that he had been "treated less fairly by the justice system than other Canadians." In addition to accusing the RCMP of leaking the story of the marijuana seizure and spreading other "false rumors," Mr. Hatfield complained of "unprecedented investigatory procedures" and accused a lawyer in the Justice Department of also leaking information.

Mr. Hatfield complained that the RCMP took a month between seizing the marijuana and laying the charge, and the fact that the investigators took special precautions with the drugs and the use of special laser technology in Ottawa in an unsuccessful attempt to improve on a partial fingerprint.

PART OF THE delay about which Mr. Hatfield complained is easily explained. There are several indications that the Mounties were reluctant to charge Mr. Hatfield, regardless of whatever passed between him and the Solicitor-General on Oct. 7. Both RCMP Commissioner Robert Simmonds and Supt. Ling stress they hesitated because they were worried about the quality of the evidence and not about the prominence of the suspect or publicity about the case.

Mr. Simmonds already was on record as opposed to marijuana possession charges in general. The Mounties knew they had only a partial fingerprint and, at that time, they did not know whose it was.

Moreover, they had a real problem of continuity with the plastic bag. They were worried about the potential publicity and were surprised that no story had broken. The explanation could be an agreement between Mr. Ryan of ATV and Mr. MacKay on some form of 30-day moratorium on the story. (Mr. Ryan admits to the 30-day period but is vague on why. ATV never ran a story until it had broken elsewhere and Mr. Ryan never confronted Mr. Hatfield, with whom he has been friendly in the past, with his information.)

This apparent somnolence began to change on Oct. 17 and 18 when Tom Corowther, publisher of the Fredericton Daily Gleaner, picked up rumors of the police investigation when he was in Saint John. One of his reporters also heard about the investigation and another confirmed it.

The Gleaner published a limited story on Oct. 20, saying that "contraband" had been seized from a "high government official" in connection with the royal plane.

Was this another leak? Mr. Hatfield claims it was and the RCMP is now conducting an internal investigation to find out. But New Brunswick reporters say that, by then, three weeks after the original seizure, the rumors were widespread and the only journalistic challenge was to confirm that the investigation was under way.

On Oct. 22, Mr. Hatfield confirmed that he was the "high official" in the Gleaner story but denied that the marijuana was his.

At this point, the Hatfield case moved to Ottawa. Insp. Waller, who already was in Ottawa, was joined by Supt. Ling. The decision was taken on Oct. 25 and the charge was laid in Fredericton two days later.

Mr. Hatfield wanted the charge to be laid and heard immediately, but the federal Government had not even appointed a special prosecutor. (One problem was that Mr. Crosbie had frozen the old list of special prosecutors appointed by the Liberals but had not got around to replacing them.)

Mr. Hatfield's next complaint centres on the legal tactic, dictated by the Justice Department in Ottawa, used to force him to supply his fingerprints. (The RCMP wanted them for comparison with the partial print found on the plastic bag.)

Although simple possession of marijuana is almost invariably treated as a summary conviction and dispensed with a small fine, the Crown kept open its option to proceed by indictment, which requires someone charged to be fingerprinted.

About the same time, the Mounties began one of the most controversial aspects of their investigation, described by Mr. Hatfield as an attempt to dig up "unrelated slanders."

They began searching for four students who had visited Mr. Hatfield's home in January, 1981, and later boasted about taking drugs and travelling to Montreal with the Premier. The story had widely circulated at the time and, as it turns out, another RCMP officer, Tim Quigly, had begun an investigation.

The RCMP eventually found two of the students, obtained statements from them and paid expenses for one of them to attend the trial. But the statements were never introduced at the trial.

Even though the trial is over and the federal Government has announced that it will not appeal, the prosecution side is still sensitive about this aspect. Mr. Hughes, the special prosecutor, will not even admit that he had the students' statements ready and suggested that there was "a special reason why I can't." Supt. Ling cut off all discussion when asked about this point.

THE CONDUCT of the trial itself already has spawned much controversy because Judge Harrigan, promoted over several older judges by Mr. Hatfield several years ago to become Chief Judge of the Provincial Court, directed as much attention to the alleged news leak as to the evidence submitted to him.

He also made no bones in his judgment about what he thought of the case against Mr. Hatfield. "Never has so much been done by so many for such a little situation."

Clearly enjoying the most high-profile case he is likely to try, Judge Harrigan gave at least two crucial legal breaks to Mr. Hatfield dealing with the statement he gave to the RCMP at his home and on the weight of the fingerprint evidence.

Don Gillis, Mr. Hatfield's lawyer, was so opposed to any fingerprint evidence that he tried to block the RCMP's fingerprint technician from being sworn in as an expert witness, a superfluous concern as it turned out. When Corporal Gordon Smith did get to tell the court that there were eight points of similarity between Mr. Hatfield's thumb print and the partial print found on the plastic bag, Judge Harrigan was not interested unless the officer could answer in black and white, and Cpl. Smith was qualifying everything.

In Judge Harrigan's opinion, Cpl. Smith "was mouthing words that were slowly destroying the Crown's case and he knew it. This man could not, beyond a reasonable doubt, say that the comparison of these two prints link the accused with the known prints."

Case dismissed — but not the end of the story.

Southam News and The Globe and Mail printed the substance of the affidavits that were not introduced in court. The accusation was that Mr. Hatfield had invited students to his home four years ago and supplied them with drugs. His response last week was unequivocal: "I completely and unequivocally deny that charge."

Mr. Hatfield went on to develop his conspiracy theory. "It is my belief that whoever did this terrible thing (the planting of marijuana in his suitcase) was/is the same persons who orchestrated these new false allegations."

For this to be true, there would have to be collusion between Southam News, The Globe, the RCMP, the special prosecution and the person or persons who allegedly planted the marijuana in Mr. Hatfield's

The trial did not prove that someone planted the marijuana in the Premier's bag, as Mr. Hatfield suggests. The judge only ruled that the Crown had failed to link Mr. Hatfield to the bag containing marijuana "beyond reasonable doubt."

Even if the drugs were planted in his bag at the airport in September, as Mr. Hatfield contends, there is no evidence to link that with the latter accusations.

Did the RCMP, either at the urging of the Justice Department, or on its own initiative, rekindle the 1981 investigation into the student pot party because it was determined to "get" Mr. Hatfield and it knew that its evidence on the airport marijuana charge was weak, especially after one of its key witnesses, Arthur Parks, Mr. Hatfield's deputy minister, died of a heart attack before the trial?

There has been only one explanation for the RCMP's zeal in recycling the 1981 incident. It comes from a Justice Department lawyer, Roger LeClaire. The students' stories were to be used as rebuttal evidence if Mr. Hatfield took the stand or if his lawyer called character witnesses. The Premier did not take the stand. That meant no rebuttal witnesses and no pot-party evidence.

But the story still made it into print, more evidence of a conspiracy, according to Mr. Hatfield and to his frequent champion, Dalton Camp. Even before the allegations of the marijuana and cocaine became public, Mr. Camp, a close family friend, adviser and frequent speechwriter for Mr. Hatfield, was on radio and writing columns questioning the role of the RCMP and calling for an investigation. Most recently, Mr. Camp said the Justice Department deliberately leaked the information about the student pot party to Southam News.

Nicholas Hills, general manager of Southam, has confirmed that, in response to its probing in Ottawa, the news service received one or more "brown envelopes" after it started working on the story.

MR. CAMP'S VERSION does not jibe with the story of the reporter who first learned about a potential student witness at the trial. The Globe's Atlantic correspondent, Michael Harris, says the story's genesis was more luck than good management. Mr. Harris overheard Peter Daigle, now a Halifax chef, ask Insp. Walter outside the Fredericton courtroom about payment of witness fees. Realizing that the young man had not testified at the trial, Mr. Harris decided to follow Mr. Daigle's story. Together with Southam's Julian Beltrame, they tracked down at least one other student who had been at Mr. Hatfield's home and another who had seen the group at the Fredericton airport on its way to Montreal.

The story had only a tenuous connection with the marijuana charge against Mr. Hatfield that had just been dismissed. Could it or should it be printed?

There was much legal consultation in the editorial offices of both Southam and The Globe. In the end, Southam decided to publish the students' allegations, influenced by the confirmation of the affidavits they were able to obtain in Ottawa.

Mr. Hills said the students' stories revealed such questionable conduct by a public figure that Southam was justified in printing the story in the public interest, whatever the connection, or lack of it, with the marijuana trial.

The Globe made a similar value judgment. After further independent verification of the contents of the affidavits, The Globe printed a similar story two days later.

After a week of silence, Mr. Hatfield denied that he had provided marijuana or cocaine to the students. He admitted that the students were at his home "with others" and attributed their presence to his "extremely gregarious" nature. He made no mention of the trip the students said they took on the Government plane to Montreal.

The students stick to their stories. What remains is a contest of credibility between an embattled premier fighting for his political life and students tracked down by the RCMP four years after the event and, under protest, required to provide somewhat self-incriminating stories.

Premier's Statement

(The following statement was issued shortly after 10 a.m. today by Premier Richard Hatfield).

Because my stubborn sense of justice has been so offended and with the knowledge of my own innocence I have now decided to make a statement.

On January 29, in a public courtroom in Fredericton, I successfully defended myself against a criminal charge of possession of marijuana.

Now I find that I must defend myself against serious allegations and rumours brought against me, not in a courtroom where they can be questioned and impartially adjudicated, but in the national media. The sting of these new accusations against me is that it is said I invited students into my home four years ago and supplied them with drugs. I completely and unequivocally deny that charge.

When told the narcotic was found in an outer pocket of my suitcase I said it was not mine. I stated publicly I did not put it there. Nevertheless, I was charged with possession. This was done even though: The au-

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Premier Richard Hatfield

Premier's Statement

(Continued from Page 1)

thorities knew at least two people were aware a narcotic had been found in my suitcase before I was told. How did they know? All those who were aware of the discovery swore under oath that no one outside the R.C.M.P. was told. How did they know? Who told them? The authorities knew my suitcase had been tempered with long after it left my possession. The airport manager testified he placed it in his assistant's office. It was left unattended in an unlocked opened room to which many people had access. When the assistant manager returned to his office the zipper to one of the outside pockets was open. He closed it. The narcotic was subsequently discovered in one of these outside pockets. Why was the pocket opened? Who opened the pocket?

I was found innocent because the marijuana was not mine and I did not put it in the suitcase. The truth is that some other person or persons deliberately planted the narcotic in my suitcase in order to disgrace me and to force my removal from office. It is my belief that whoever did this terrible thing were the same persons who orchestrated these new false accusations.

How then can I defend myself against these accusations? I have always believed in the Canadian system of justice as inherited from Britain. Under that system, citizens are innocent until proven guilty and when a man is acquitted in open court he is not then persecuted for matters that would never be brought against him in the courtroom. I must rely on the decency and common sense of the people of New Brunswick.

I believe that throughout this ordeal, and save for the trial in the Fredericton courtroom, I have been treated less fairly by the justice system than other Canadians. As the judge at my trial said, "Never has so much been done by so many for such a little." The police waited a month before charging me. In violation of my rights under the Charter the Crown delayed giving me notice of the specific charge against me in a vian attempt to compel me to incriminate myself. At the trial admissions were made of the use of unprecedented investigatory procedures in a case of this kind—lasers were used, couriers for marijuana analysis, and expert police witnesses giving unprecedented evidence. The Crown called 17 witnesses. In gathering evidence police travelled to Toronto and elsewhere to dig up unrelated slanders. When, despite all this exceptional and indeed extraordinary effort, I was acquitted...within a matter of days a lawyer from the Federal Department of Justice located in Ottawa confirmed to an Opposition Member of Parliament that statements were made and the identification of the men who performed on television last week. As far as I can tell the lawyer's conduct was certainly unprecedented and unprofessional and improper. The Opposition Member of Parliament has said he was told the name of one of the men by Southam News. How did they know?

It is my information that at the same time certain representatives of the media throughout the country received unmarked brown envelopes containing the two statements. Who sent these envelopes? Why were they sent?

The Oppositon Member of Parliament, using his parliamentary privilege, made public before the nation accusations that could not be brought against me fairly in a courtroom. Following this these two persons were brought forward to tell their own unlikely stories in an attempt to discredit me in my trusted office.

The statements made by these men that I used a narcotic in their presence and that I supplied a narcotic to them are completely false. It is true that they were in my home together with others some four years ago. However they were strangers to me. Those who know me will confirm I am extremely gregarious. I meet and talk to people on the streets, in the markets and the shops, in the restaurants and in the bars. I invite them to my house. I go to their house. The door to my house is usually unlocked and frequently open. That is my way. I admit I am unconventional. It is the same when I travel, especially in New Brunswick because these people are my constituents and members of the public of the province. I cannot and do not know the charcter or habits or truthfulness of every one of them.

When these false statements were published I remained silent because once again I was obliged to obtain legal advice. I am advised it is open to me to commence action for defamation. While this is not an option I have rejected, and it is one I would not hesitate to pursue if ultimately required, there are serious competing considerations.

Some four months elapsed between the planting of the marijuana in an outer pocket of my suitcase and my acquittal. During this time I experienced immense strain and personal distress. Must I now defend myself forever against other slanders and stale dated tales? I received the office I hold as a result of a free election and a democratic process. That is the only process which will remove me from this office. It would be a breach of the faith all Canadians have in the integrity of that process if I were to allow myself to be removed in any other way.

I want to close by appealing to that sense of decency and fair play which best characterizes New Brunswick. The presumption of innocence is a fundamental right of every Canadian including me. I have been found innocent in a fair trial of the only charge brought against me. To those who sought to profit by their wickedness, they should know they have failed. To those who believed in me and supported me and relied on me, I have not and I will not let you down.